MINOR AND MISCELLANEOUS BILLS (PART 2)

Y 4. J 89/1: 104/40/PT. 2

Minor and Miscellaneous Bills, (Par...

RING

THE

SUBCOMMITTEE ON CRIME

OF THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

ON

H.R. 1143, H.R. 1144, H.R. 1145, H.R. 2092, H.R. 2137, H.R. 2453, H.R. 2587, H.R. 2607, H.R. 2641, H.R. 2650, H.R. 2803, H.R. 2804, H.R. 2974, H.R. 2980, and H.R. 2996

MARCH 7, 1996

Serial No. 40

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MINOR AND MISCELLANEOUS BILLS
(Part 2)

THURSDAY, MARCH 7, 1996

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2141, Rayburn House Office Building, Hon. Bill McCollum (chairman of the subcommittee) presiding.

Present: Representatives Bill McCollum, Howard Coble, Fred Heineman, Ed Bryant of Tennessee, Steve Chabot, Bob Barr, Charles E. Schumer, and Zoe Lofgren.

Also present: Paul J. McNulty, chief counsel; Glenn R. Schmitt, counsel; Daniel J. Bryant, assistant counsel, Aerin D. Dunkle, research assistant; Audray L. Clement, secretary; and Tom Diaz, minority counsel.

OPENING STATEMENT OF CHAIRMAN McCOLLUM

Mr. MCCOLLUM. This hearing on the Subcommittee on Crime will come to order.

This morning we continue a process begun last year in which we attempt to consider several minor and miscellaneous bills in an expeditious manner, and I might add that I don't think that most of the people who listen to these bills today are going to consider them to be minor.

I guess the term is being used only because we are trying to expedite them and we are trying to handle them in a way that we believe is possible because they are not controversial in nature, which might be a better description. Several of them are quite major, as a matter of fact.

The pattern over the past decade has been to consider a large amount of crime legislation in an omnibus form. This process often did not afford us time necessary for careful consideration of bills that were significant but frequently rolled into very large bills. Today's hearing is designed to give us that opportunity.

Let me assure everyone that the purpose of this hearing is to simply begin consideration of the issues raised by the bills before us.

The subcommittee will welcome comments and statements from all interested parties. We already have a significant number of such statements and will continue to seek them and put them into the record at the appropriate time.

Let me also say that the fact that a bill is being considered today does not mean that it will necessarily be marked up, although I would hope that many, if not most of these bills today will be.

After today's hearing we will review all of the comments and views expressed regarding these proposals. The staff and I will consult with members of the subcommittee and those who are offering these bills and we will see what is possible given the limited time in this Congress and the status of this particular legislation in each of the cases involved.

[The bills, H.R. 1143, H.R. 1144, H.R. 1145, H.R. 2092, H.R. 2137, H.R. 2453, H.R. 2587, H.R. 2607, H.R. 2641, H.R. 2650, H.R. 2803, H.R. 2804, H.R. 2974, H.R. 2980, and H.R. 2996, follow:]

I

104TH CONGRESS
1ST SESSION

H. R. 1143

To amend title 18, United States Code, with respect to witness retaliation.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 1995

Mr. FOX of Pennsylvania introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To amend title 18, United States Code, with respect to witness retaliation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1513 of title 18, United States Code, is amended by adding at the end the following:

"(c) If the retaliation occurred because of attendance at or testimony in a criminal case, the maximum term of imprisonment which may be imposed for the offense under this section shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.".

○

I

104TH CONGRESS
1ST SESSION

H. R. 1144

To amend title 18, United States Code, with respect to witness tampering.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 1995

Mr. FOX of Pennsylvania introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To amend title 18, United States Code, with respect to witness tampering.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1512 of title 18, United States Code, is amended by adding at the end the following:

"(i) If the offense under this section occurs in connection with a trial of a criminal case, the maximum term of imprisonment which may be imposed for the offe. se shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.".

○

I

104TH CONGRESS
1ST SESSION

H. R. 1145

To amend title 18, United States Code, with respect to jury tampering.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 1995

Mr. FOX of Pennsylvania (for himself, Mr. HYDE, Mr. CONYERS, Mr. MCCOLLUM, and Mr. SCHUMER) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To amend title 18, United States Code, with respect to jury tampering.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1503 of title 18, United States Code, is amended by adding at the end the following: "If the offense under this section occurs in connection with a trial of a criminal case, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term

that could have been imposed for any offense charged in such case.".

○

104TH CONGRESS
1ST SESSION

H. R. 2092

To expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 21, 1995

Mr. BARR (for himself, Mr. MARTINEZ, Mr. HEINEMAN, Mr. SCHIFF, Mr. BERMAN, Mr. SERRANO, and Mr. BRYANT of Tennessee) introduced the following bill; which was referred to the Committee on Economic and Educational Opportunities, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Security Officer Quality Assurance Act of 1995".

SEC. 2. FINDINGS.

Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) the private security industry provides numerous opportunities for entry-level job applicants, including individuals suffering from unemployment due to economic conditions or dislocations;

(3) sworn law enforcement officers provide significant services to the citizens of the United States in its public areas, and are only supplemented by private security officers who provide prevention and reporting services in support of, but not in place of, regular sworn police;

(4) given the growth of large private shopping malls, and the consequent reduction in the number of public shopping streets, the American public is more likely to have contact with private security personnel in the course of a day than with sworn law enforcement officers;

(5) regardless of the differences in their duties, skill, and responsibilities, the public has difficulty in discerning the difference between sworn law enforcement officers and private security personnel;

(6) the American public demands the employment of qualified, well-trained private security per-

sonnel as an adjunct, but not a replacement for sworn law enforcement officers;

(7) the States and employers should be required to determine the qualifications of applicants for employment as private security personnel;

(8) employers should be required to ensure at least minimum training for newly hired private security personnel and refresher training for experienced personnel, based upon State-imposed standards;

(9) State requirements, if any, for screening and training private security personnel vary widely;

(10) public safety would be improved if all States required appropriate screening and training of private security personnel;

(11) States should enact laws imposing minimum standards that are uniform nationwide for the screening and training of private security personnel, although States should be allowed to enact stricter or more rigorous standards if they so choose; and

(12) State law applicable to private security personnel should apply to all private security personnel.

SEC. 3. BACKGROUND CHECKS.

(a) IN GENERAL.—An association of employers of private security officers, designated for the purpose of this

section by the Attorney General, may submit fingerprints or other methods of positive identification approved by the Attorney General, to the Attorney General on behalf of any applicant for a State license or certificate of registration as a private security officer or employer of private security officers. In response to such a submission, the Attorney General may, to the extent provided by State law conforming to the requirements of the second paragraph under the heading "Federal Bureau of Investigation" and the subheading "Salaries and Expenses" in title II of Public Law 92–544 (86 Stat. 1115), exchange, for licensing and employment purposes, identification and criminal history records with the State governmental agencies to which such applicant has applied.

(b) REGULATIONS.—The Attorney General may prescribe such regulations as may be necessary to carry out this section, including measures relating to the security, confidentiality, accuracy, use, and dissemination of information and audits and recordkeeping.

(c) REPORT.—The Attorney General shall report to the Senate and House Committees on the Judiciary 2 years after the date of enactment of this bill on the number of inquiries made by the association of employers under this section and their disposition.

SEC. 4. STATE LICENSING OR REGISTRATION OF SECURITY OFFICERS.

For the purpose of assuring that private security officers are qualified to provide the public with security services, it is the sense of the Congress that the several States should enact statutes which would include the following:

(1) EMPLOYER LICENSES.—Requirements and procedures for issuing licenses to, and reviewing security services, of employers. A State could require an employer to name an individual holder of such license:

(A) FEES.—Fees on licenses of employers of private security officers should compensate the State for its direct costs of implementing and enforcing the program. Revenues from such fees should be dedicated to this regulatory program.

(B) ASSIGNMENT TO DUTY.—Procedures should require that employers may assign an employee to duty as an unarmed private security officer prior to the State's approval of the employee's registration as a private security officer only after the employer has—

(i) submitted an application for a criminal records background check,

(ii) initiated verification of the employee's personal references and 5 year employment history, and

(iii) verified that the employee has successfully completed the classroom training required by paragraph (3).

(2) REGISTRATION PERMITS.—Requirements for issuance of registration permits by the State regulatory authority to private security officers, including the following provisions:

(A) Permits should be valid for 3 years.

(B) Applicants who have been convicted of committing a felony or a misdemeanor, either of which the State Regulatory Agency determines relevant to the performance of security services should be denied a registration permit. States should utilize the criminal records forwarded by the Department of Justice in addition to State police records in making this determination.

(C) Employers must certify that the employees have completed classroom and on the job training.

(3) TRAINING REQUIREMENTS.—Each State should have in effect training requirements for pri-

vate security officers that consist of the following, at a minimum:

(A) For unarmed security officers, the following:

(i) Eight hours of basic classroom instruction, successful completion of a written examination, and four hours of on the job training.

(ii) Such classroom training should include, at a minimum, the following:

(I) The legal powers and limitations of a private security officer, including instruction in the law of arrest, search and seizure, and the use of force as related to security services.

(II) Safety and fire detection and reporting.

(III) When and how to notify public authorities.

(IV) The techniques of observation and reporting of incidents, and how to prepare an incident report.

(V) The fundamentals of patrolling.

(VI) Deportment and ethics.

(B) For armored car personnel, the State should have in effect training and testing that appropriately reflects the nature of their duties rather than the classroom instruction required by subparagraph (A).

(C) For electronic security officers, the State should require training and testing that adequately prepares the registrant for duties in the fields of burglar alarms, fire alarms, closed circuit television, access control, or system monitoring.

(D) For armed private security officers, in addition to the training required by paragraph (1) or (2), the following:

(i) Fifteen hours of weapons instructions (including the marksmanship described in clause (ii)) and successful completion of a written examination on—

(I) the legal limitations on the use of,

(II) weapons handling, and

(III) safety and maintenance.

(ii) A minimum marksmanship qualification of 70 percent attained on any sil-

houette target course approved by the State regulatory agency.

(E) Each State should have in effect a requirement for an annual refresher course in the subjects listed in this section. Armed private security officers should be required to requalify on the range.

(4) WAIVER.—On the request of an employer, a State should waive the preassignment screening requirements and training requirement if the security officer holds a valid registration certificate of that State, or is a sworn law enforcement officer.

(5) RECOGNITION OF OUT-OF-STATE LICENSES.—A State should accept proof of licensure of registration (accompanied by an appropriate fee) from other States as valid licenses providing the State's training and screening requirements are consistent.

(6) EMPLOYEE PROTECTION.—A State should have in effect a law that makes invalid and unenforceable any unreasonable limitation imposed by an employer on the right of an employee to seek or obtain subsequent employment as a private security officer after voluntary or involuntary termination of employment by such employer.

(7) ADVISORY BOARDS.—States should use advisory boards to provide information to regulators enforcing the statute. Such boards should include persons engaged in the business of providing security, security managers, law enforcement officials, and members of the public.

SEC. 5. DEFINITIONS.

As used in this Act—

(1) the term "employee" includes an applicant for employment;

(2) the term "employer" means any person that—

(A) employs one or more private security officers; or

(B) provides, as an independent contractor, for consideration, the services of one or more private security officers (possibly including oneself);

(3) the term "felony" means an offense for which a term of imprisonment exceeding one year may be imposed;

(4) the term "misdemeanor" means an offense for which a maximum term of imprisonment of one year or less may be imposed;

(5) the term "private security officer"

(A) means—

(i) an individual who performs security services, full or part time, for consideration as an independent contractor or an employee, whether armed or unarmed and in uniform or plain clothes whose primary duty is to perform security services, or

(ii) an individual who is an employee of an electronic security system company engaged in one or more of the following activities in the State: burglar alarm technician, fire alarm technician, closed circuit television technician, access control technician, or security system monitor; but

(B) does not include—

(i) sworn police officers who have law enforcement powers in the State,

(ii) attorneys, accountants, and other professionals who are otherwise licensed in the State,

(iii) employees whose duties are primarily internal audit or credit functions,

(iv) persons whose duties may incidentally include the reporting or apprehension of shoplifters or trespassers, or

(v) an individual on active duty in the military service;

(6) the term "registration permit" means a license, permit, certificate, registration card, or other formal written permission from the State for the person to engage in providing security services;

(7) the term "security services" means the performance of one or more of the following:

(A) the observation or reporting of intrusion, larceny, vandalism, fire or trespass;

(B) the deterrence of theft or misappropriation of any goods, money, or other item of value;

(C) the observation or reporting of any unlawful activity;

(D) the protection of individuals or property, including proprietary information, from harm or misappropriation;

(E) the control of access to premises being protected;

(F) the secure movement of prisoners;

(G) the maintenance of order and safety at athletic, entertainment, or other public activities;

(H) the provision of canine services for protecting premises or for the detection of any unlawful device or substance; and

(I) the transportation of money or other valuables by armored vehicle;

(8) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(9) the term "State Regulatory Agency" means an appropriate State regulatory entity.

○

I

104TH CONGRESS
1ST SESSION

H. R. 2137

To amend the Violent Crime Control and Law Enforcement Act of 1994 to require the release of relevant information to protect the public from sexually violent offenders.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 1995

Mr. ZIMMER (for himself, Ms. DUNN of Washington, and Mr. DEAL of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To amend the Violent Crime Control and Law Enforcement Act of 1994 to require the release of relevant information to protect the public from sexually violent offenders.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "Megan's Law".

SEC. 2. RELEASE OF INFORMATION.

Section 170101(d)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C.

14071(d)(3)) is amended by striking "may" and inserting "shall".

○

104TH CONGRESS
1ST SESSION

H. R. 2453

To amend title 18, United States Code, to increase speedy trial time limits.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 1995

Mr. FRANK of Massachusetts introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To amend title 18, United States Code, to increase speedy trial time limits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fugitive Detention Act of 1995".

SEC. 2. SPEEDY TRIAL TIME LIMITS.

Section 3161 of title 18, United States Code, is amended by adding at the end the following:

"(l) If the defendant was a fugitive from justice, the time limit required by subsection (e), as extended by subsection (h), is further extended by 60 days for each year

the court determines the defendant was a fugitive from justice. Section 3164(c) of this title does not apply with respect to such a defendant.".

○

104TH CONGRESS
1ST SESSION

H. R. 2587

To carry out the international obligations of the United States under the Geneva Conventions to provide criminal penalties for certain war crimes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 7, 1995

Mr. JONES introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To carry out the international obligations of the United States under the Geneva Conventions to provide criminal penalties for certain war crimes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "War Crimes Act of 1995".

SEC. 2. CRIMINAL PENALTIES FOR CERTAIN WAR CRIMES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 117 the following:

"CHAPTER 118—WAR CRIMES

"Sec.
"2401. War crimes.

"§ 2401. War crimes

"(a) IN GENERAL.—Whoever, whether inside or outside the United States, commits a grave breach of the Geneva conventions where the victim of such breach is member of the armed forces of the United States or a citizen of the United States, shall be fined under this title or imprisoned for life or any term or years, or both, and if death results to the victim, shall also be subject to the penalty of death.

"(b) DEFINITIONS.—As used in this section, the term 'grave breach of the Geneva conventions' means conduct defined as a grave breach in any of the international conventions relating to the laws of warfare signed at Geneva 12 August 1949 or any protocol to any such convention, to which the United States is a party."

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 117 the following new item:

"118. War crimes ..... 2401".

○

104TH CONGRESS
1ST SESSION

H. R. 2607

To prohibit desecration of Veterans' memorials.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 1995

Mrs. LOWEY introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To prohibit desecration of Veterans' memorials.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Memorials Protection Act of 1995".

SEC. 2. DESECRATION OF VETERANS' MEMORIALS.

(a) IN GENERAL.—Chapter 65 of title 18, United States Code, is amended by adding at the end the following:

"§ 1368. Desecration of veterans' memorials

"Whoever willfully injures or commits any depredation against any structure, plaque, statue, or other monu-

ment on public property commemorating the service of any person or persons in the armed forces of the United States, shall be fined under this title or imprisoned not more than 10 years, or both, but if the damage or attempted damage does not exceed the sum of $100, the defendant shall be fined under this title or imprisoned not more than one year, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 65 of title 18, United States Code, is amended by adding at the end the following:

"1368. Desecration of veterans' memorials.".

○

I

104TH CONGRESS
1ST SESSION

H. R. 2641

To amend title 28, United States Code, to provide for appointment of United States marshals by the Director of the United States Marshals Service.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 1995

Mr. MCCOLLUM introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To amend title 28, United States Code, to provide for appointment of United States marshals by the Director of the United States Marshals Service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Marshals Service Improvement Act of 1995".

SEC. 2. APPOINTMENTS OF MARSHALS.

(a) IN GENERAL.—Chapter 37 of title 28, United States Code, is amended—

(1) in section 561(c)—

(A) by striking "The President shall appoint, by and with the advice and consent of the Senate," and inserting "The Director shall appoint"; and

(B) by inserting "United States marshals shall be appointed subject to the provisions of title 5 governing appointments in the competitive civil service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and pay rates." after the first sentence;

(2) by striking subsection (d) of section 561;

(3) by redesignating subsections (e), (f), (g), (h), and (i) of section 561 as subsections (d), (e), (f), (g), and (h), respectively; and

(4) by striking section 562.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 37 of title 28, United States Code, is amended by striking the item relating to section 562.

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SEC. 3. TRANSITIONAL PROVISIONS; PRESIDENTIAL APPOINTMENT OF CERTAIN UNITED STATES MARSHALS.

(a) INCUMBENT MARSHALS.—Notwithstanding the amendments made by this Act, each marshal appointed under chapter 37 of title 28, United States Code, before the date of the enactment of this Act shall, unless that marshal resigns or is removed by the President, continue to perform the duties of that office until the expiration of that marshal's term and the appointment of a successor.

(b) VACANCIES AFTER ENACTMENT.—Notwithstanding the amendments made by this Act, with respect to the first vacancy which occurs in the office of United States marshal in any district, during the period beginning on the date of the enactment of this Act and ending on December 31, 1999, the President shall appoint, by and with the advice and consent of the Senate, a marshal to fill that vacancy for a term of 4 years. Any marshal appointed by the President under this subsection shall, unless that marshal resigns or is removed from office by the President, continue to perform the duties of that office after the end of the four-year term to which such marshal was appointed or until a successor is appointed.

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104TH CONGRESS
1ST SESSION

H. R. 2650

To amend title 18, United States Code, to eliminate certain sentencing inequities for drug offenders.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 1995

Mr. HEINEMAN (for himself, Mr. COBLE, Mr. BRYANT of Tennessee, Mr. CHABOT, and Mr. HOKE) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To amend title 18, United States Code, to eliminate certain sentencing inequities for drug offenders.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mandatory Federal Prison Drug Treatment Act of 1995".

SEC. 2. ELIMINATION OF SENTENCING INEQUITIES FOR DRUG OFFENDERS.

(a) IN GENERAL.—Subparagraph (B) of section 3621(e)(2)(B) of title 18, United States Code, is amended to read as follows:

"(B) ELIGIBILITY FOR GOOD TIME.—If a prisoner is eligible for the substance abuse treatment program, good time credit for that prisoner under section 3624(b) shall not vest unless the prisoner successfully completes such program, and remains drug free after the completion of the program.".

(b) CONFORMING AMENDMENT.—Section 3624(b) of title 18, United States Code, is amended by adding at the end the following:

"(5) Credit under this subsection for a prisoner who is eligible for a residential treatment program under section 3621(e), shall be limited in accordance with section 3621(e)(2)(B).".

(c) ELIGIBILITY.—Clause (ii) of section 3621(e)(5)(B) of title 18, United States Code, is amended to read as follows:

"(ii) within 24 months of the date of release; and".

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104TH CONGRESS
1ST SESSION

H. R. 2803

To amend the anti-car theft provisions of title 49, United States Code, to increase the utility of motor vehicle title information to State and Federal law enforcement officials, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 18 (legislative day, DECEMBER 15), 1995

Mr. MCCOLLUM (for himself, Mr. SCHUMER, Mr. COBLE, Mr. HEINEMAN, Mr. SCHIFF, Mr. DURBIN, Mr. BRYANT of Tennessee, and Ms. LOFGREN) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To amend the anti-car theft provisions of title 49, United States Code, to increase the utility of motor vehicle title information to State and Federal law enforcement officials, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Car Theft Improvements Act of 1995".

SEC. 2. DEFINITIONS.

Section 30501(1) of title 49, United States Code, is amended by inserting before the period the following: "and 'motor vehicle' has the same meaning as the term 'passenger motor vehicle' has in section 32101(10)".

SEC. 3. SYSTEM NAME AND IMPLEMENTATION DATE.

(a) SECTION 30502.—Section 30502(a)(1) of title 49, United States Code, is amended—

(1) by striking "January 31, 1996" and inserting "October 1, 1997", and

(2) by striking "Automobile" each place it occurs and inserting "Motor Vehicle".

(b) SECTION 30503.—Section 30503(d) of title 49, United States Code, is amended by striking "January 1, 1997" and inserting "October 1, 1998".

SEC. 4. DELEGATION OF AUTHORITY.

(a) SECRETARY OF TRANSPORTATION.—Sections 30501, 30502, 30503, 30504, and 30505 of title 49, United States Code, are each amended by striking each reference to "Secretary of Transportation" or "Secretary" and inserting "Attorney General".

(b) ATTORNEY GENERAL.—Section 30502 of title 49, United States Code, is amended by striking each reference to "Attorney General" and inserting "Secretary of Transportation".

SEC. 5. TITLE INFORMATION SYSTEM.

Section 30502 of title 49, United States Code, is amended by adding at the end the following:

"(f) IMMUNITY.—Any person performing any activity under this section or sections 30503 or 30504 in good faith and with the reasonable belief that such activity was in accordance with this section or section 30503 or 30504, as the case may be, shall be immune from any civil action seeking money damages or equitable relief in any court of the United States or a State.".

SEC. 6. STOLEN VEHICLE INFORMATION SYSTEM.

Section 33109 of title 49, United States Code, is amended by adding at the end the following:

"(d) IMMUNITY.—Any person performing any activity under this section or section 33110 or 33111 in good faith and with the reasonable belief that such activity was in accordance with such section shall be immune from any civil action seeking money damages or equitable relief in any court of the United States or a State.".

SEC. 7. GRANTS TO STATES.

(a) AMENDMENT.—Section 30503(c)(2) of title 49, United States Code, is amended to read as follows:

"(2) The Attorney General may make reasonable and necessary grants to participating States to be used in making titling information maintained by those States available to the operator.".

(b) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out section 30503 of title 49, United States Code.

(c) INFORMATION SYSTEM.—The information system established under section 30502 of title 49, United States Code, shall be effective as provided in the rules promulgated by the Attorney General.

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104TH CONGRESS
1ST SESSION

H. R. 2804

To amend the auto theft provisions of title 49, United States Code, to add air bag modules to the list of major auto parts protected under such provisions.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 18 (legislative day, DECEMBER 15), 1995

Mr. SCHUMER (for himself and Mr. MCCOLLUM) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To amend the auto theft provisions of title 49, United States Code, to add air bag modules to the list of major auto parts protected under such provisions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AIR BAG MODULES.

Section 33101(6) of title 49, United States Code, is amended—

(1) by redesignating subparagraphs (K) and (L) as subparagraphs (L) and (M), respectively; and

(2) by inserting after subparagraph (J) the following:

"(K) each air bag module;".

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104TH CONGRESS
2D SESSION

H. R. 2974

To amend the Violent Crime Control and Law Enforcement Act of 1994 to provide enhanced penalties for crimes against elderly and child victims.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 1996

Mr. CHRYSLER introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To amend the Violent Crime Control and Law Enforcement Act of 1994 to provide enhanced penalties for crimes against elderly and child victims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crimes Against Children and Elderly Persons Increased Punishment Act".

SEC. 2. ENHANCED PENALTIES FOR VULNERABLE VICTIMS.

Section 240002 of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"SEC. 240002. ENHANCED PENALTIES FOR VULNERABLE VICTIMS.

"(a) IN GENERAL.—The United States Sentencing Commission shall amend the Federal sentencing guidelines to provide a sentencing enhancement of not less than 5 levels above the offense level otherwise provided for a crime of violence, if the crime of violence is against a child or elderly person.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'crime of violence' means an offense under section 113, 114, 1111, 1112, 1113, 1117, 2111, 2241, 2242, or 2244 of title 18, United States Code;

"(2) the term 'child' means a person who is 11 years of age, or younger; and

"(3) the term 'elderly person' means a person who is 65 years of age or older.".

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(Original signature of Member)

104TH CONGRESS
2D SESSION

H. R. 2980

IN THE HOUSE OF REPRESENTATIVES

Mr. ROYCE introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 18, United States Code, with respect to stalking.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Stalking Punishment and Prevention Act of 1996".

SEC. 2. PUNISHMENT OF INTERSTATE STALKING.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 2261 the following:

"§ 2261A. Interstate stalking

"Whoever travels across a State line or enters or leaves Indian country with the intent to injure or harass another person, and in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury to, that person or a member of that person's immediate family (as defined in section 115) shall be punished as provided in section 2261.".

(b) CONFORMING AMENDMENTS.—

(1) Section 2261(b) of title 18, United States Code, is amended by inserting "or section 2261A" after "this section".

(2) Sections 2261(b) and 2262(b) of title 18, United States Code, are each amended by striking "offender's spouse or intimate partner" each place it appears and inserting "victim".

(3) The chapter heading for chapter 110A of title 18, United States Code, is amended by inserting "**AND STALKING**" after "**VIOLENCE**".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110A of title 18, United States Code, is amended by inserting after the item relating to section 2261 the following new item:

"2261A. Interstate stalking.".

104TH CONGRESS
2D SESSION

H. R. 2996

IN THE HOUSE OF REPRESENTATIVES

Mr. MCCOLLUM introduced the following bill; which was referred to the Committee on _____

A BILL

To create a commission to encourage cooperation between public sector law enforcement agencies and private sector security professionals to control crime.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Law Enforcement and Industrial Security Cooperation Act of 1996".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Seventy percent of all money invested in crime prevention and law enforcement each year in the United States is spent by the private sector.

(2) There are nearly three employees in private sector security for every one in public law enforcement.

(3) More than half of the responses to crime come from private security.

(4) A bipartisan study commission specially constituted for the purposes of examining appropriate cooperative roles between public sector law enforcement and private sector security will be able to offer comprehensive proposals for statutory and procedural initiatives.

SEC. 3. PURPOSES.

The purposes of the Commission are as follows:

(1) To identify critical issues in crime control and law enforcement which may be better addressed through improved cooperation between public law enforcement agencies and private sector security professionals.

(2) To examine existing models of public-private cooperation and, through consultation with leading authorities in law enforcement, private security, criminal justice and business, improve such

models or develop new models that promote cooperation between public law enforcement and private security.

(3) To encourage public agencies and private businesses and institutions to make use of effective models for cooperation in crime control and law enforcement.

(4) To analyze Federal, State, and local statutes which either enhance or inhibit cooperation between public law enforcement and private security and to recommend changes to such laws which would have the effect of enhancing cooperation between public sector law enforcement agencies and private sector security professionals.

SEC. 4. ESTABLISHMENT AND COMPOSITION OF THE COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Law Enforcement and Industrial Security Cooperation Commission (in this Act referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed of 12 members, as follows:

(1) 3 members to be appointed by the majority leader of the Senate who shall select such members from a list of nominees provided by the Chairperson

of the Committee on the Judiciary of the Senate. Of the 3, one shall be a Member of the Senate, one shall be a representative of public law enforcement, and one shall be a representative of private security.

(2) 3 members to be appointed by the minority leader of the Senate who shall select such members from a list of nominees provided by the ranking minority member of the Committee on the Judiciary of the Senate. Of the 3, one shall be a Member of the Senate, one shall be a representative of public law enforcement, and one shall be a representative of private security.

(3) 3 members appointed by the Speaker of the House of Representatives who shall select such members from a list of nominees provided by the chairperson of the Committee on the Judiciary of the House of Representatives. Of the 3, one shall be a Member of the House, one shall be a representative of public law enforcement, and one shall be a representative of private security.

(4) 3 members appointed by the minority leader of the House of Representatives who shall select such members from a list of nominees provided by the ranking minority member of the Committee on the Judiciary of the House of Representatives. Of

the 3, one shall be a Member of the House, one shall be a representative of public law enforcement, and one shall be a representative of private security.

(c) CONTINUATION OF MEMBERSHIP.—If a member was appointed to the Commission as a Member of Congress and the member ceases to be a Member of Congress, or was appointed to the Commission because the member was not an officer or employee of any government and later becomes an officer or employee of a government, that member may continue as a member for not longer than the 30-day period beginning on the date that member ceases to be a Member of Congress, or becomes such an officer or employee, as the case may be.

(d) CHAIRPERSON.—The Commission shall elect a chairperson from among its members.

(e) QUORUM; VACANCY.—

(1) IN GENERAL.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Seven members of the Commission shall constitute a quorum, except a lesser number may hold hearings.

(2) VACANCY.—Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(f) APPOINTMENT OF MEMBERS; MEETING.—

(1) APPOINTMENT OF MEMBERS.—Members of the Commission shall be appointed not later than 120 days after the date of the enactment of this Act.

(2) MEETING.—If after 120 days after the date of enactment of this Act, 7 or more members of the Commission have been appointed, the members who have been appointed may meet and select a chairperson who thereafter shall have authority to begin the operations of the Commission, including the hiring of staff.

SEC. 5. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a member of the Commission whose services are not donated by such member's employer may be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which such member is engaged in the actual performance of the duties of the Commission.

(2) LIMITATION.—Members of the Commission who are officers or employees of the United States

or Members of Congress shall receive no additional pay on account of their service on the Commission.

(b) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 6. POWERS OF THE COMMISSION.

(a) HEARINGS AND SUBPOENAS.—The Commission may hold such hearings, sit and act at such times and places, administer such oaths, take such testimony, receive such evidence, and require by subpoena the attendance and testimony of such witnesses and the production of such materials as the Commission considers appropriate.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairperson of the Commission, the head of such department or agency may furnish such information to the Commission.

(c) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary

for the Commission to carry out its responsibilities under this Act.

(d) CONTRACTING.—The Commission may enter into contracts to enable the Commission to discharge its duties under this Act.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—Financing of the Commission and its activities will come from corporate, foundation, and individual contributions. No special appropriation of Federal funds shall be made for the purposes of this Act.

(2) FEDERAL SERVICES.—Departments and agencies of the United States are authorized, however, to provide to the Commission such services, funds, facilities, staff, and other support services as they may deem advisable for the purposes of this Act and as may be authorized by law.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 7. STAFF OF THE COMMISSION.

(a) STAFF.—The Commission chairperson, in accordance with rules agreed upon by the Commission and reasonable limitations imposed by budget, may appoint a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions.

The staff director and other personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(b) CONSULTANTS AND EXPERTS.—The Commission is authorized to procure the services of experts and consultants in accordance with budgetary strictures.

SEC. 8. REPORT.

The Commission shall submit to Congress and the Attorney General, not later than 2 years after the date of its first meeting, a final report containing such recommendations concerning methods and activities that promote cooperation between public sector law enforcement agencies and private sector security professionals, including proposing new or changed procedures, rules, regulations, or legislation.

SEC. 9. TERMINATION.

Not later than 60 days after submitting its final report pursuant to section 8 the Commission shall terminate.

Mr. MCCOLLUM. Now, today, rather than going through all of the introductory statements at the moment, which I am going to come back and do with my colleague, Mr. Schumer, and making comments on a couple of bills that I have introduced, and letting Mr. Heineman make comments, since Mr. Frank is here and I know he is chairing another subcommittee that he has got to attend.

Mr. FRANK. I wish.

Mr. MCCOLLUM. You wish you were chairing it. He has got to attend it. You wish you were chairing it, that's right.

I have been asked as a collegial matter to go forward at this point and testify on his matter, and I am going to recognize him before we proceed with anything else.

STATEMENT OF HON. BARNEY FRANK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. FRANK. Thank you, Mr. Chairman.

I like to think of myself as a once and future chairman. But I appreciate your accommodating me. It is the affirmative action markup. I am the ranking minority member.

Let me say on behalf of three of your colleagues, Mr. Conyers, Mr. Watt and Ms. Jackson Lee, they are all down at that markup. So that is why they are not here.

I appreciate your hearing this. Frankly, this is something I got from reading the papers, which can sometimes be better than at other times. I read about a case of a person accused of a Federal crime who had been hiding from the Federal authorities for some period of time and then, it sounds like a bad joke, he went before the judge and said that his right to a speedy trial was being violated.

It really is a case of the person who kills her parents and says have mercy, I am an orphan. This accused individual hides from the Federal authorities and then says you didn't try me quickly enough.

And what my legislation says is that for every year an individual absents himself or herself from the authorities, 60 days should be added to the speedy trial requirement. Obviously—and the Justice Department reminds me that every 21 days, the 70-day clock is renewed, and we would hope we could do speedy trials, but in fact someone has been in hiding for a couple of years, it might be harder to assemble that evidence than if it was fresher.

And what this does, to me, is to make sure that someone accused of a crime gets no benefit. There is no right to flee the jurisdiction and to hide out from the authorities. So this simply would give the prosecutor an ability—it is obviously not mandatory. If the prosecutor can move speedily, obviously, that is in everybody's interest, but it would give the prosecutor the option of holding off because someone being away for 3, 4, 5 years, it might be harder to reassemble the evidence. People might have scattered.

There are a number of reasons why you want more of time. I have talked about it with the Justice Department. I would not be adverse to making explicit that if the defense could show that the added time in this case was going to be a particular hardship, they would have some burden of proof and some right to try to show

that. But in general, it seems to me it ought to be within the discretion of the prosecutor in most of these cases.

If you have tried to foil the legal process by illegally hiding out and refusing to show up—obviously, if you haven't been notified, this doesn't work against you—then you shouldn't get the benefit of that and the Government ought to have the option of extra time if your absence has increased its difficulty.

So that is the legislation, Mr. Chairman, and I hope we can work it out.

Mr. MCCOLLUM. Mr. Frank, I just want to ask one quick question.

Why did you choose 60 days as the additional time?

Mr. FRANK. For the usual arbitrary reason you pick some time. Obviously, you don't want to do a day-for-day. I did note that the original time in the speedy trial, I think it was a 70-day clock.

Mr. MCCOLLUM. Right.

Mr. FRANK. And you are not doing it de novo. This is 60 days on top of the 70 days. It seemed to me a rough ratio, but I am not an expert in this. And, you know, 100 years seemed too long and an hour didn't seem long enough, and we got 60.

Mr. MCCOLLUM. I wanted to ask that, that is all.

Anybody else got any questions they want to ask Mr. Frank?

Yes, Mr. Heineman.

Mr. HEINEMAN. Is this not, in effect, a suspension of the statute of limitations if there is a set time?

Mr. FRANK. I think this would be equivalent to a tolling of a statute of limitations, exactly right. In both cases, we have laws on the books that are intended to provide speed and protect the right of the accused. But if the accused abuses that, he or she shouldn't get the benefit of it.

Mr. MCCOLLUM. Any other questions for Mr. Frank?

If not, thank you very much.

Mr. FRANK. Thank you, Mr. Chairman. I appreciate your accommodating us.

Mr. MCCOLLUM. We did deviate a little bit from what we normally would do. I notice Mr. Martinez and Mr. Chrysler are here and I don't want to hold them, but I want to give Mr. Schumer, my ranking minority member, an opportunity to make an opening statement.

Mr. SCHUMER. Well, thank you, Mr. Chairman.

I think this hearing demonstrates that the length of a bill doesn't measure its importance. Many of the bills before us are only a few pages long. Each of them are important, both to the Member who introduced it and to the public that it potentially affects.

I would like to focus my remarks on one bill that I introduced with your cosponsorship, Mr. Chairman, a bill that would help stop the explosive growth of theft of airbags from automobiles. Stealing airbags is a costly and dangerous trend and we need to stop it.

H.R. 2804 is a simple bill. It doesn't create a new crime. It doesn't extend the investigative power of Federal law enforcement or mandate any new tax dollars. It simply adds airbags to the list of existing major auto parts that automobile manufacturers are required to mark with a distinctive number that matches the automobile in which the part is contained.

The problem is happening everywhere. Airbags have become a hot new item to steal all over America. Insurance industry statistics say they grew by 79 percent between 1992 and 1994, and if the present trend continues, airbag thefts will cost the auto insurance industry $120 million a year, which will translate into higher rates for you and for me.

I am going to skip through most of my statement here. It is sort of lengthy on this issue. It was like opening—you know, it was like testifying here, and ask unanimous consent that it be put into the record.

I also just want to mention H.R. 2803, the Anti-Car Theft Improvements Act, which I cosponsored with you, it is a sound move making the 1992 law, which I authored, work better by moving responsibility for central registry of automobile titles from the Department of Transportation, which has never wanted to do this for some reason, to the Department of Justice.

I also want to mention support of Congresswoman Lowey's bill, 2607, the Veterans Memorial Protection Act. There is little more despicable than the desecration of memorials to men and women who have answered the call of duty and given their service to our Nation in a time of war.

Finally, I also strongly support H.R. 2641, the U.S. Marshals Service Improvement Act of 1995. The Marshals Service has too many dangerous, sensitive and critical law enforcement responsibilities to entrust its top positions to patronage appointments.

With that, Mr. Chairman, I want to thank you for calling this hearing, and ask unanimous consent that my entire statement be placed in the record.

Mr. MCCOLLUM. Without objection, so ordered.

[The prepared statement of Mr. Schumer follows:]

PREPARED STATEMENT OF HON. CHARLES E. SCHUMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

THANK YOU, MR. CHAIRMAN.

THIS HEARING DEMONSTRATES THAT THE LENGTH OF A BILL DOES NOT MEASURE ITS IMPORTANCE.

MANY OF THE BILLS BEFORE US TODAY ARE ONLY A FEW PAGES LONG. BUT EACH OF THEM IS IMPORTANT -- BOTH TO THE MEMBER WHO INTRODUCED IT AND TO THE PUBLIC IT POTENTIALLY AFFECTS.

I'D LIKE TO FOCUS MY REMARKS ON ONE BILL THAT I INTRODUCED, WITH THE CO-SPONSORSHIP OF CHAIRMAN MCCOLLUM -- H.R. 2804. THIS BILL WILL HELP STOP THE EXPLOSIVE GROWTH IN THE THEFT OF AIR BAGS FROM AUTOMOBILES. STEALING AIR BAGS IS A COSTLY AND DANGEROUS TREND. WE NEED TO STOP IT.

H.R. 2804 IS A SIMPLE BILL. IT DOES NOT CREATE A NEW CRIME. IT DOES NOT EXTEND THE INVESTIGATIVE POWER OF FEDERAL LAW ENFORCEMENT. IT DOES NOT MANDATE

SPENDING ANY NEW TAX DOLLARS.

IT SIMPLY ADDS AIR BAGS TO THE EXISTING LIST OF MAJOR AUTO PARTS THAT AUTOMOBILE MANUFACTURERS ARE REQUIRED TO MARK WITH A DISTINCTIVE NUMBER THAT MATCHES THE AUTOMOBILE IN WHICH THE PART IS CONTAINED.

FIRST, LET ME ASSURE EVERYONE HERE -- THIS PROBLEM IS HAPPENING IN YOUR COMMUNITY.

AIR BAGS HAVE BECOME THE HOT NEW ITEM TO STEAL FROM CARS, ALL OVER AMERICA.

ACCORDING TO INSURANCE INDUSTRY STATISTICS, THEFTS OF AIR BAGS GREW BY A STAGGERING 79 PERCENT BETWEEN 1992 AND 1994. THERE ARE ABOUT 22 MILLION AIR BAGS IN CARS TODAY -- AND EVERY ONE OF THEM IS A POTENTIAL TARGET.

IF THE PRESENT TREND CONTINUES, AIR BAG THEFTS WILL COST THE AUTO INSURANCE INDUSTRY $120 MILLION A YEAR. THAT COST WILL TRANSLATE INTO HIGHER RATES FOR EVERY INSURANCE POLICY HOLDER TOO. YOU, AND I, AND ALL OF OUR CONSTITUENTS, WILL PAY FOR THIS AIR BAG THEFT EXPLOSION IN HIGHER INSURANCE PREMIUMS.

THIS PROBLEM WAS BROUGHT TO MY ATTENTION FIRST BY AN AUTO DEALERS ASSOCIATION IN NEW YORK. THEY HAVE BEEN HIT BY LIGHTNING RAIDS IN WHICH AIR BAGS ARE STOLEN FROM SCORES OF CARS AT ONCE.

BUT WHEN WE RESEARCHED THE ISSUE, WE FOUND OUT THAT IT'S A PROBLEM ALL OVER AMERICA. I INVITE EVERYONE HERE TO GO BACK TO YOUR OFFICE AND RESEARCH THE NEWSPAPERS IN YOUR STATE OR YOUR HOME TOWN, OR TALK TO THE AUTO DEALERS OR THE COPS. I AM CONFIDENT THAT YOU WILL FIND THAT AIR BAG THEFT IS A PROBLEM IN YOUR STATE OR DISTRICT, TOO.

NOW, WHY HAS THIS PROBLEM EMERGED?

FIRST, BECAUSE IT IS EASY TO STEAL AN AIRBAG. IT TAKES LESS THAN A MINUTE FOR A THIEF TO POP AN AIRBAG OUT. I KNOW BECAUSE I HAVE SEEN IT DEMONSTRATED.

SECOND, BECAUSE – UNLIKE OTHER MAJOR PARTS IN AUTOMOBILES – AIR BAGS ARE NOT MARKED WITH A DISTINCTIVE NUMBER. THIS MAKES IT EASY TO RE-SELL THE STOLEN PART TO A CROOKED REPAIR SHOP. AND THAT'S WHAT

IS HAPPENING TO MOST OF THESE STOLEN AIR BAGS.

A FACTORY ORDERED REPLACEMENT AIR BAG CAN COST AROUND $600. BUT A CROOKED REPAIR SHOP CAN GET A STOLEN BAG FOR FROM $50 TO $100. THE DIFFERENCE IS ALL PROFIT FOR THE CROOKED OPERATOR.

THIRD, THIS IS A MAJOR SAFETY PROBLEM. CROOKED REPAIR SHOPS ARE NOT CAREFUL ABOUT PUTTING THE RIGHT BAG INTO THE RIGHT CAR. AND AIR BAGS ARE NOT INTERCHANGEABLE ACROSS CAR MODELS. THAT MEANS IF YOU GET A STOLEN REPLACEMENT PART, YOU MAY GET A BAG THAT EITHER WON'T OPEN AT ALL, OR THAT WILL OPEN IN A WAY THAT HURTS YOU MORE THAN IT PROTECTS YOU.

WHAT WILL MARKING THESE PARTS DO TO HELP STOP THE PROBLEM? TWO THINGS.

FIRST, AS SOON AS IT GOES INTO EFFECT IT WILL MAKE IT EASIER FOR POLICE AND PROSECUTORS TO PROVE THAT BAGS HAVE BEEN STOLEN.

IF A POLICE OFFICER TODAY ARRESTED A CROOK WITH FIFTY STOLEN AIR BAGS IN HIS BACK SEAT, HE WOULD HAVE NO

WAY OF PROVING THOSE BAGS WERE STOLEN, BECAUSE YOU CAN'T SHOW WHICH BAG CAME FROM WHICH CAR.

MARKING AIR BAGS WILL MAKE IT POSSIBLE TO LINK EACH BAG TO A SPECIFIC CAR.

SECOND, WHEN THE 1992 ANTI-AUTO THEFT ACT ALREADY ON THE BOOKS IS FULLY IMPLEMENTED, ALL STOLEN MAJOR AUTO PARTS WILL GO INTO A COMPUTERIZED CENTRAL REGISTER. PEOPLE WHO DEAL IN USED AUTO PARTS WILL CHECK THOSE PARTS AGAINST THAT REGISTER, AND STOLEN PARTS CAN BE QUICKLY AND EASILY IDENTIFIED.

IN SUMMARY: THERE IS A REAL AND DANGEROUS CRIME WAVE IN STOLEN AUTO PARTS. IT IS FUELED BY THE LACK OF UNIFORM MARKING ON THESE AIR BAGS. THIS BILL WILL GO A VERY LONG WAY TOWARD FIXING THE PROBLEM.

IF I MAY, MR. CHAIRMAN, I'D ALSO LIKE TO SAY A FEW THINGS IN SUPPORT OF ONE OR TWO OTHER BILLS BEFORE US.

OBVIOUSLY, I SUPPORT H.R. 2803, THE ANTI-CAR THEFT IMPROVEMENTS ACT WHICH I CO-SPONSOR WITH YOU. THIS IS A SOUND MOVE TOWARD MAKING THE 1992 LAW WORK BETTER BY

MOVING RESPONSIBILITY FOR A CENTRAL REGISTER OF AUTOMOBILE TITLES FROM THE DEPARTMENT OF TRANSPORTATION -- WHICH DOES NOT WANT THE RESPONSIBILITY -- TO THE DEPARTMENT OF JUSTICE, WHICH DOES.

I ALSO SUPPORT CONGRESSWOMAN LOWEY'S BILL, H.R. 2607, THE VETERANS MEMORIAL PROTECTION ACT. THERE IS LITTLE MORE DESPICABLE THAN THE DESECRATION OF MEMORIALS TO THE MEN AND WOMEN WHO HAVE ANSWERED THE CALL OF DUTY AND GIVEN THEIR SERVICE TO OUR NATION IN TIME OF WAR. THIS BILL WOULD STRENGTHEN PROTECTION OF STATE MEMORIALS. OUR VETERANS IN NEW YORK THINK THIS IS IMPORTANT, AND I AGREE WITH THEM WHOLEHEARTEDLY.

FINALLY, I ALSO STRONGLY SUPPORT H.R. 2641, THE UNITED STATES MARSHALS SERVICE IMPROVEMENT ACT OF 1995. THE MARSHALS SERVICE HAS TOO MANY DANGEROUS, SENSITIVE, AND CRITICAL LAW ENFORCEMENT RESPONSIBILITIES TO ENTRUST ITS TOP POSITIONS TO

PATRONAGE APPOINTMENTS. WE WOULDN'T APPOINT FBI SPECIAL AGENTS IN CHARGE, OR SECRET SERVICE REGIONAL DIRECTORS, BY PATRONAGE. WE SHOULD NOT APPOINT U.S. MARSHALS THAT WAY EITHER.

THERE ARE A FEW OTHER BILLS ON THIS LIST ABOUT WHICH I HAVE SOME RESERVATIONS. BUT I WOULD PREFER TO LET THE SUPPORTERS OF THESE BILLS MAKE THEIR CASE WITHOUT MY POISONING THE WELLS. IT MAY BE THAT THEY WILL PERSUADE ME TO CHANGE MY MIND.

THANK YOU, MR. CHAIRMAN.

Mr. MCCOLLUM. Before I recognize Mr. Heineman, who I think has something he wants to comment on, and we get to our Members, I want to briefly mention a couple of bills that don't have witnesses to testify today, too, because I have sponsored those particular bills, as you sponsored some here today.

You mentioned one of them, H.R. 2641, which is the U.S. Marshals Service Improvement Act, which would change the selection process of the Nation's 94 U.S. marshals, from that of appointment by the President with the advice and consent of the Senate, to the appointment by the Director of the U.S. Marshals Service.

U.S. marshals would be selected on a competitive basis among career managers within the Marshals Service rather than being nominated by the administration and approved or rejected by the Senate. An incumbent U.S. marshal selected by enactment would perform the duties of their office until their terms expire.

H.R. 2641 represents another step towards changing the way Congress does business by taking politics out of Federal law enforcement. The current selection of U.S. marshals is as varied as the Senators who nominate them.

And I am not going to go into the great details of this, just as you haven't. I am going to, after I finish commenting on each of these bills, simply ask that the full discussion as part of my statement be put into the record.

But it is a very significant change for the U.S. Marshals Service. It seems to me it is a common sense approach, and of the bills at least that I am offering today, it is right at the top of those that I think are most important.

H.R. 2803 is the Anti-Car Theft Improvement Act of 1995, to increase the utility of motor vehicle title information to State and Federal law enforcement officials. Under current law established in the Anti-Car Theft Act of 1992, the Department of Transportation was to install by January 1996 an electronic information system that would allow a State motor vehicle tilting authority—titling authority, I should say, to check instantly whether a vehicle had been stolen before it issues a new title for that vehicle.

In 1992, the act also established a Federal grant program to help States modify computer software for this purpose. Responsibility for implementing the act has been delegated between the Department of Justice and the Department of Transportation.

To date, DOJ has a designated system for stolen parts information but DOT has neither established a related stolen vehicle system nor designated another entity to do so. The need for national titling was established by Congress 4 years ago, yet little has been done.

This bill would fill the critical gaps in the existing law, improve the 1992 act in three ways, by transferring to the Department of Transportation the responsibility for a titling system to the Department of Justice, and extending the implementation from January 1996 to a more realistic deadline in October 1997; provide for immunity for individuals who make a good-faith effort to comply with the titling efforts and authorize appropriations for the previously established grant program.

I am not going into again the reasons why this bill is important, just to let folks know what it is.

And H.R. 2996 is the Law Enforcement and Industrial Security Cooperation Act of 1996, creates a Commission to encourage cooperation between the public sector law enforcement agencies and private sector security professionals to control crime.

It establishes a 12-member Commission composed of Members of the House and Senate and representatives of public law enforcement agencies and the private security industry. Financing of the Commission and its activities will come from corporate foundation and individual contributions. There are no appropriations of Federal funds involved.

After 2 years, the Commission will submit to Congress and the Attorney General a final report concerning methods and activities that promote cooperation between public sector law enforcement and private sector security professionals, including new or changed procedures, rules and regulations.

And it represents, this bill does, an effort on the part of this Congress to tap the underutilized resources in a fight against crime, and I think that, quite frankly, the private security sector has a great deal to offer in that regard.

Those are the three bills. And as I said, as Mr. Schumer has done, I have not given a statement completely on each one but summarized them because we expect the Department of Justice to comment on them as well as on all the bills here today when their testimony comes.

Mr. Heineman, did you wish to make an opening comment?

I understood that you did, but perhaps not at this point.

Mr. HEINEMAN. Not at this point.

Mr. MCCOLLUM. All right.

Then I think we should go to our witnesses, unless somebody else has a really critical thing.

We have Members sitting out here.

I think Mr. Martinez and Chrysler were next in order, or listed here.

Mr. HEINEMAN. Mr. Chairman.

Mr. MCCOLLUM. Yes.

Mr. HEINEMAN. Is this the time to introduce my bill or was that just for an opening statement?

Mr. MCCOLLUM. Well, I think you can make your comments on your bill at this point.

Mr. HEINEMAN. OK.

Mr. MCCOLLUM. Either way you prefer.

Now, we have got Mr. Martinez and Mr. Chrysler waiting out here. Maybe the appropriate thing to do would be to recognize you after they have had their chance, and then we can move on so we don't hold them up. I think that is probably a good idea.

Mr. HEINEMAN. Yes, sir.

Mr. MCCOLLUM. Mr. Martinez, I think you are next in the order out here.

STATEMENT OF HON. MATTHEW G. MARTINEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MARTINEZ. Thank you, Mr. Chairman.

Mr. MCCOLLUM. And I think Bob, Mr. Barr, has had a role to play in this particular bill.

You introduced it originally, is that correct, in some way?

Mr. BARR. Yes, Mr. Chairman.

Mr. MCCOLLUM. Do you want to make a comment and then Mr. Martinez, or how would you like to do that?

Mr. BARR. I would be honored to have my colleague Mr. Martinez, so we don't hold him up, make his statement and then I can follow with my statement at the appropriate time, Mr. Chairman.

Mr. MCCOLLUM. So everybody knows the order, Mr. Chrysler, you are next in line, and then we have got—right, we have got a regular line up here. If you don't know what it is, check with staff. They are right here.

Aerin is right over there, if you are waiting to find out where you are on the list.

Mr. Martinez, you are recognized.

Mr. MARTINEZ. Thank you, Mr. Chairman, and thank you, Mr. Barr.

Mr. Barr did introduce this bill in this session of Congress. This is a similar bill to the bill that I introduced in the last Congress.

I am very grateful for the hearing here today. I wasn't able to achieve that hearing in the last Congress, other than the hearings that were held in my own subcommittee as joint jurisdiction.

But I join with Mr. Bob Barr in support of this bill, H.R. 2092, which I believe would achieve a legislative objective that I have supported for a long time. For several years, we have been working to enact legislation to help provide assurances to the public that the security guards they see at work, at the grocery store, in the mall or on the street are well-qualified and trained and, more importantly, that there is not someone there with a uniform that has a criminal record.

H.R. 2092 will enable us to do that, I believe, without really putting a mandate on the States and without placing an inordinate burden on the private security industry. Private security has actually, in a way, sponsored this bill.

In the 103d Congress, the House Education and Labor Subcommittee on Human Resources, conducted 2 days of hearings on a bill similar to this one, and what we heard at those hearings is that this bill is wanted, first of all, by the State regulatory agencies, and by the private security industry, because they recognize the public danger posed by inadequately trained security officers.

We have learned from witnesses such as Monica Worth who was attacked in a mall, where there were security guards unable to help her, the devastating effects of inadequate background checks and training.

Now, those stories have been repeated and amplified in television and news exposes and articles from Los Angeles to New York. One of the most famous incidents was that of the gentleman—a security guard in Texas who, while in uniform, carrying a gun, and wearing his badge, attacked and killed a woman and was subsequently apprehended, only to find out that he had a criminal record in Louisiana which would not have allowed him to hold that job, yet he was able to move to Texas and get a job.

This bill is supported by the National Association of Security Companies, the National Armored Car Association and the National Association of State Security and Investigative Regulators.

This is commonsense legislation, narrowly focused to meet a specific need, to provide State regulators with an expeditious way to obtain multistate criminal histories on those who would be selected to private security.

When I first learned how long it takes to secure a response to local fingerprint checks, I was appalled. The average career tenure of a private security officer with one employee is, I am told, less than 2 years. You have to understand that these are mobile workers. Yet in some States, it takes as much as 18 months or more to secure a response as to whether the guard has a criminal record or not. That is simply too long.

This legislation will enable the States to cut that turnaround time down to that experienced by the banking industry and the parimutuel betting industry. Certainly if they can have that convenience at their hands, I think the security industry ought to as well. And that is just a matter of weeks.

The bill also contains a Sense of Congress Resolution urging the States to require these background checks and to ensure that employers provide training appropriate to the job the security guard will be doing. The bill does not mandate action on the part of the States, but it does follow closely the suggestions of the State Regulators Association as to what is appropriate to be included in the State law.

The Attorney General cannot provide expedited fingerprint check responses without this bill. This bill is necessary for them to do that. I hope that all the members of this subcommittee will support Mr. Barr's bill, and I thank you for allowing me to testify today.

[The prepared statement of Mr. Martinez follows:]

PREPARED STATEMENT OF HON. MATTHEW G. MARTINEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

THANK YOU MR. CHAIRMAN

I WANT TO TAKE THIS OPPORTUNITY TO THANK MR. SCHUMER, RANKING MEMBER OF THE COMMITTEE, AND YOU, CHAIRMAN MC COLLUM, FOR BRINGING THIS IMPORTANT BILL UP TODAY AND FOR ALLOWING ME TO TESTIFY.

I JOIN MY COLLEAGUE, BOB BARR, REPUBLICAN OF GEORGIA, IN BI-PARTISAN SUPPORT OF H. R. 2092, WHICH WOULD ACHIEVE A LEGISLATIVE OBJECTIVE THAT I HAVE SUPPORTED FOR A LONG TIME.

FOR SEVERAL YEARS, I HAVE BEEN WORKING TO ENACT LEGISLATION TO HELP PROVIDE ASSURANCE TO THE PUBLIC THAT THE SECURITY GUARD THEY SEE AT WORK, AT THE GROCERY, IN THE MALL, OR ON THE STREET, IS WELL QUALIFIED, TRAINED AND, MOST IMPORTANTLY, NOT A CRIMINAL POSING AS A SECURITY GUARD.

H.R. 2092 WILL ENABLE US TO DO THAT - WITHOUT PUTTING A MANDATE ON THE STATES, AND WITHOUT PLACING INORDINATE BURDENS ON THE PRIVATE SECURITY INDUSTRY.

IN THE 103RD CONGRESS, THE HOUSE EDUCATION AND LABOR SUBCOMMITTEE ON HUMAN RESOURCES, UNDER MY CHAIRMANSHIP, CONDUCTED TWO DAYS OF HEARINGS ON A BILL SIMILAR TO THIS ONE.

WHAT WE HEARD AT THOSE HEARINGS IS THAT THIS BILL IS WANTED BY THE STATE REGULATORY AGENCIES AND BY THE PRIVATE SECURITY INDUSTRY BECAUSE THEY RECOGNIZE THE PUBLIC DANGER POSED BY INADEQUATELY TRAINED AND VETTED SECURITY OFFICERS.

WE LEARNED FROM WITNESSES SUCH AS MONICA WORTH, THE DEVASTATING EFFECTS OF INADEQUATE BACKGROUND CHECKS AND TRAINING.

THOSE STORIES HAVE BEEN REPEATED AND AMPLIFIED IN TELEVISION NEWS EXPOSES AND ARTICLES FROM LOS ANGELES TO NEW YORK.

THIS BILL IS SUPPORTED BY THE NATIONAL ASSOCIATION OF SECURITY COMPANIES, THE NATIONAL ARMORED CAR ASSOCIATION, AND THE NATIONAL ASSOCIATION OF STATE SECURITY AND INVESTIGATIVE REGULATORS.

THIS IS COMMON-SENSE LEGISLATION NARROWLY FOCUSED TO MEET A SPECIFIC NEED--TO PROVIDE STATE REGULATORS WITH AN EXPEDITIOUS WAY TO OBTAIN MULTI-STATE CRIMINAL HISTORIES ON THOSE WHO WOULD BE SELECTED TO PROVIDE PRIVATE SECURITY.

WHEN I FIRST LEARNED HOW LONG IT TAKES TO SECURE A RESPONSE TO A LOCAL FINGERPRINT CHECK, I WAS APPALLED.

THE AVERAGE CAREER TENURE OF A PRIVATE SECURITY OFFICER WITH ONE EMPLOYEE IS, I AM TOLD, LESS THAN 2 YEARS - THESE ARE MOBILE WORKERS.

YET, IN SOME STATES IT TAKES 18 MONTHS OR MORE TO SECURE A RESPONSE AS TO WHETHER THE GUARD HAS A CRIMINAL RECORD.

THIS LEGISLATION WILL ENABLE THE STATES TO CUT THAT TURN AROUND TIME DOWN TO THAT EXPERIENCED BY THE BANKING INDUSTRY AND THE PARI-MUTUEL BETTING INDUSTRY - A

MATTER OF WEEKS.

THE BILL ALSO CONTAINS A SENSE OF THE CONGRESS RESOLUTION URGING THE STATES TO REQUIRE THESE BACKGROUND CHECKS AND TO ENSURE THAT EMPLOYERS PROVIDE TRAINING APPROPRIATE TO THE JOB.

THE BILL DOES NOT MANDATE ACTION ON THE PART OF THE STATES, BUT IT DOES FOLLOW CLOSELY THE SUGGESTIONS OF THE STATE REGULATORS' ASSOCIATION AS TO WHAT IS APPROPRIATE TO BE INCLUDED IN A STATE LAW.

THE ATTORNEY GENERAL CANNOT PROVIDE EXPEDITED FINGER PRINT CHECK RESPONSES WITHOUT THIS BILL, AND I HOPE THAT ALL MEMBERS OF THE SUBCOMMITTEE WILL SUPPORT MR. BARR'S BILL.

THANK YOU MR. CHAIRMAN.

Mr. MCCOLLUM. Thank you very much, Mr. Martinez.

Do we have questions on this bill?

Mr. Barr, do you want to comment on that?

Mr. BARR. I do have a statement.

Would it be appropriate at this time, Mr. Chairman, or would you prefer to defer that?

Mr. MCCOLLUM. It would be appropriate, depending upon the length of it.

If you wish to summarize it now and introduce it into the record fine, or if you want to hold it back until after the Members who are sitting here testify on their bills, it is your choice.

Mr. BARR. Why don't I ask unanimous consent to have my statement placed in the record.

I hope that all Members do have a copy of it. And perhaps the most important document is a chart that I hope all Members have, showing a side-by-side of the current very cumbersome and extremely lengthy system, whereby applicants for security positions—as Mr. Martinez had said, these people are clothed with authority and engage in activities that very legitimately place a life and limb at risk. We want to make sure that we have the very best people for those positions.

The bill does not, as Mr. Martinez said, mandate anything. It is not an unfunded mandate. The fees will be paid when the applications are batched and sent up to the FBI. It will not—I do not believe it will result in any vast increase. The same people are going to be applying.

We think that actually it may result in fewer because the system is streamlined. There will be greater certainty that applicants know—will result from this streamline process, and I think that it will give all of us out in our private lives, Mr. Chairman, a greater sense of security, knowing that there is not going to be delays that typically run up to 18 months, and really have the tremendous potential for mishaps in the current cumbersome system.

We are very mindful that we do not want to overburden the FBI and our other Federal agencies. This will not do so. It is not an unfunded mandate, Mr. Chairman. It is simply a method that we believe brings the security industry in line with the reality today, and that is we have far too many out there, people wearing private security badges. They want to do a good job. The companies want to do a good job, and this will enable them more efficiently to make sure by streamlining the process whereby these applications and fingerprints are cleared through the FBI.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Barr follows:]

Prepared Statement of Hon. Bob Barr, a Representative in Congress From the State of Georgia

MR. CHAIRMAN, COLLEAGUES, I APPRECIATE YOUR CONSIDERATION OF H.R. 2092, THE PRIVATE SECURITY OFFICER QUALITY ASSURANCE ACT TODAY. I INTRODUCED THIS LEGISLATION, ALONG WITH OUR COLLEAGUE, CONGRESSMAN MARTY MARTINEZ, TO HELP ASSURE THAT SECURITY OFFICERS UNDERGO THOROUGH AND TIMELY CRIMINAL BACKGROUND CHECKS. THE BILL PROPOSES AN EXPEDITED PROCEDURE, SIMILAR TO THOSE IN USE BY THE FINANCIAL AND PARIMUTUEL INDUSTRIES TODAY, TO MATCH THE FINGERPRINTS OF JOB APPLICANTS AGAINST RECORDS MAINTAINED BY THE FEDERAL BUREAU OF INVESTIGATION'S CRIMINAL JUSTICE SERVICES DIVISION.

GROWING NEED

THERE ARE MORE THAN 1.5 MILLION PRIVATE SECURITY OFFICERS IN THE UNITED STATES. THE SECURITY INDUSTRY IS DYNAMIC, AND THERE IS AN ONGOING NEED TO HIRE QUALIFIED PERSONNEL, AS VACANCIES OCCUR. THOROUGH REVIEWS OF JOB APPLICANTS' BACKGROUNDS ARE CRITICAL TO EMPLOYERS, BOTH TO PROTECT ASSETS AND ASSURE PROTECTION FOR THE PUBLIC. EMPLOYERS MUST DEPEND ON STATE AND FEDERAL AGENCIES FOR CRIMINAL HISTORY INFORMATION. THEY NEED THIS INFORMATION PROMPTLY, BUT UNDER EXISTING LAW, THE PROCESS CAN TAKE FROM THREE TO 18 MONTHS.

CURRENT PROCESS

THIRTY NINE STATES NOW REQUIRE SECURITY CONTRACTORS TO CONDUCT BACKGROUND CHECKS OF THEIR PERSONNEL, USUALLY REQUIRING FINGERPRINT MATCHES. WHEN THE STATE REQUIRES A REVIEW OF FBI RECORDS, A CUMBERSOME, UNWIELDY PROCESS IS USED, LEADING TO THE LENGTHY DELAYS I'VE DESCRIBED. TODAY, AN EMPLOYER MUST SUBMIT PRINTS TO THE STATE POLICE AGENCY, WHICH FORWARDS THEM TO THE BUREAU, WHERE THEY ARE PROCESSED. THE "RAP SHEET" IS THEN SENT BACK TO THE POLICE AGENCY WHICH THEN SENDS THESE RESULTS TO THE STATE'S AGENCY CHARGED WITH REGULATING THE INDUSTRY. THAT AGENCY THEN MUST JUDGE THE FITNESS OF THE APPLICANT FOR EMPLOYMENT AND A DECISION IS MADE. AT THAT POINT, IF A PERMIT IS ISSUED IT IS SENT TO THE APPLICANT.

SYSTEM BOGS DOWN

THE EXISTING SYSTEM FOR PRIVATE SECURITY EMPLOYERS TO LEARN WHETHER AN APPLICANT'S CRIMINAL HISTORY DISQUALIFIES THAT PERSON IS OFTEN CUMBERSOME AND TIME-CONSUMING. THE TYPICAL TRANSACTION PROVIDES MANY OPPORTUNITIES FOR THE PROCESS TO BOG DOWN. WITH STATE AGENCIES COMMONLY STRETCHED THIN BY TIGHT BUDGETS, THE TIME REQUIRED FOR STAFF TO FORWARD AN APPLICANT'S FINGERPRINTS TO THE FBI SOMETIMES CONSUMES MONTHS.

STILL FURTHER DELAYS CAN OCCUR AFTER THE BUREAU COMPLETES THE CHECK AND RETURNS THE RESULTS TO THE STATE. AS RELATED EARLIER, IN MANY STATES THE RESULTS OF THE BACKGROUND REVIEW GO TO A LAW ENFORCEMENT

AGENCY, THEN TO A SEPARATE REGULATORY AGENCY RESPONSIBLE FOR SECURITY OFFICERS, LENGTHENING THE PROCESS. THE BOTTOM LINE IS THAT IN SOME INSTANCES, AN EMPLOYER MAY WAIT MORE THAN A YEAR BEFORE LEARNING WHETHER AN APPLICANT HAS A SERIOUS CRIMINAL RECORD.

ALTERNATIVE APPROACHES

FINANCIAL INSTITUTIONS WERE AUTHORIZED BY CONGRESS UNDER PL 92-544 TO OBTAIN CRIMINAL RECORDS DIRECTLY FROM THE FBI. UNDER THAT SYSTEM, THE AMERICAN BANKERS ASSOCIATION SCREENS FINGERPRINT CARDS RECEIVED FROM BANKS FOR LEGIBILITY AND FORWARDS THEM TO THE FBI FOR ANALYSIS. THE "RAP SHEET" IS THEN RETURNED DIRECTLY TO THE BANK. UNDER THIS SYSTEM, THE ABA HAS INDICATED THE PROCESS IS REDUCED TO ABOUT 20 BUSINESS DAYS.

CONGRESS CREATED ANOTHER "EXPRESS LANE" FOR OBTAINING CRIMINAL RECORD INFORMATION WITH ENACTMENT OF PL 100-413, THE "PARIMUTUEL LICENSING SIMPLIFICATION ACT OF 1988." THIS IS A SIMILAR PROCESS TO THE ONE USED BY THE ABA, BUT THE "RAP SHEET" IS SENT BACK TO THE STATE REGULATORY AGENCY, NOT THE EMPLOYER. THIS SYSTEM APPROXIMATES THAT PROPOSED IN H.R. 2092.

SECURITY OFFICER CHECKS

OUR BILL WILL AUTHORIZE THE ATTORNEY GENERAL TO NAME AN ASSOCIATION TO AGGREGATE FINGERPRINT CARDS, SCREEN THEM FOR LEGIBILITY, AND THEN FORWARD THEM TO THE FBI. THE RESULTS OF THE RECORDS SEARCH

WOULD THEN BE FORWARDED TO THE APPROPRIATE STATE OFFICIALS. BY SENDING THE RECORDS TO STATE OFFICIALS, RATHER THAN TO EMPLOYERS, WE AVOID POTENTIAL CONCERNS ABOUT PRIVACY RIGHTS OF JOB APPLICANTS. BY ELIMINATING SEVERAL STEPS FROM THE PROCESS, THIS SYSTEM SHOULD RESULT IN A FAR MORE EFFICIENT SYSTEM. THIS SYSTEM HAS BEEN ENDORSED BY THE NATIONAL ASSOCIATION OF STATE SECURITY AND INVESTIGATIVE REGULATORS. AS UNDER CURRENT LAW, FEES WILL BE ASSESSED TO COMPENSATE THE FBI FOR ITS COSTS. THIS WILL NOT BE A CHANGE FROM THE CURRENT SYSTEM.

SENSE OF THE CONGRESS RESOLUTION

THE BILL ALSO CONTAINS A "SENSE OF THE CONGRESS" RESOLUTION URGING STATES TO ESTABLISH LICENSING PROGRAMS FOR SECURITY COMPANIES. IT URGES THAT BACKGROUND CHECKS BE CONDUCTED AND THAT SECURITY OFFICERS BE TRAINED. IT INCUDES ABSOLUTELY NO MANDATES FOR THE STATES. STATES ARE NOT REQUIRED TO PARTICIPATE IN ANY PART OF THE PROPOSED BILL.

I URGE YOU TO JOIN WITH ME IN SUPPORT OF H.R. 2092. I'D BE PLEASED TO RESPOND TO ANY QUESTION YOU MAY HAVE.

Mr. McCollum. You are quite welcome. Your statement will be admitted in the record, without objection.

Mr. Martinez, I just have one question in mind, and that has to do with the apparent opposition of the Fraternal Order of Police to this bill. Are you familiar with that? And could you comment on why we should go ahead with the bill regardless of their opposition?

Mr. Martinez. Well, I am not sure that they have that opposition anymore. They did initially because they felt that somehow or another, with the training that the security guards would receive, they would be replacing sworn officers. Well, we have been able, I think, to convince them by the structure of the bill that that necessarily wouldn't happen.

One little community somewhere in the Northeast had done that, let go their police department, which was a small police department of maybe three or four officers, and then hired a private company to do the policing. It didn't work out, and they subsequently went back to the sworn officers.

I think that that probably allayed some of the fears that they had initially, and the last word I had from them—and there are some people that interact with that association here today all the time; you might check with them—that they didn't have that opposition anymore.

Mr. McCollum. Well, the reason I raised it is, we have a letter dated March 6 to me from the national president expressing reservation. We will give you a copy of it and let you maybe talk with them about it. I will ask staff to make sure you get a copy of that letter. I don't know if that is the current thing but that is just yesterday. So presumably they still have some reservations on it.

[The letter follows:]

FRATERNAL ORDER OF POLICE
NATIONAL LEGISLATIVE PROGRAM
309 MASSACHUSETTS AVENUE, N E • WASHINGTON DC 20002
PHONE (202) 547-8189 FAX (202) 547-8190

GILBERT O GALLEGOS
NATIONAL PRESIDENT

BERNARD H TEODORSKI
NATIONAL VICE PRESIDENT
CHAIRMAN NATIONAL LEGISLATIVE COMMITTEE

JAMES O PASCO JR
EXECUTIVE DIRECTOR

March 6, 1996

The Honorable William McCollum
Chairman, Subcommittee on Crime
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman McCollum:

On behalf of the 270,000 members of the National Fraternal Order of Police, I want to strongly state our opposition to H.R. 2092, a bill which would facilitate reliance on private security firms rather than on the professional law enforcement officers employed by state and local governments.

This issue first arose in the 103rd Congress when Congressman Matthew Martinez, unsuccessfully offered it as an amendment to the omnibus crime legislation signed into law on September 13, 1993. As we stated at that time, there are several reasons for our opposition. First, the reliance on private security forces creates an illusion of safety not supported by the skills, abilities, and track records of private security firms. Second, security firms will never have the same public mandate, or the same dedication, as professional law enforcement officers. Finally, supplanting real police with private security guards is at variance with the off stated goal of both the Democratic Administration and the Republican Congress: to maximize the numbers of trained law enforcement professionals on the streets to protect the public.

We have serious reservations about the wisdom of commissioning armed groups of civilians to enforce the law -- whether they are private security forces, or citizens' groups, or unsanctioned militias. We believe the enforcement of laws should be left to the governments which enact them, and to the professionals employed by, trained by, and responsible to, those governments.

We urge you to oppose this well intentioned but dangerous legislation. Law enforcement should be undertaken for the public good, not for private profit.

Sincerely,

Gilbert G. Gallegos
National President

Mr. MARTINEZ. Here again, if they still do, it stems from the fact that they feel that those kinds of security officers aren't trained to the extent they are and should not be replacing them as sworn law enforcement officers.

I think there is a bill that you mentioned earlier in your review of the bills that we would be covering today, the fact that you are introducing a bill where you can gain security from private security guard companies for law enforcement, because local communities don't have the funds in today's very strapped economy to provide enough law enforcement. The use of these private security officers on a voluntary basis is similar to how law enforcement organizations use reserve officers.

It would be a very beneficial thing to them. So they might, with the passage of your bill, understand that we are trying to promote cooperation between those two entities and that in getting these people better qualified and better trained, that is going to be an asset to them.

Mr. MCCOLLUM. What I propose, just so you know, is a study to try to come up with some better relationships with the private security industry and how they can be helpful, because there are huge numbers of them out there.

And I think we have to work all of this. I didn't mean to say otherwise. The police know that. They work every day with the private security folks. It is just a matter of concerns that they have expressed, and we need to be sure we express those concerns.

Has anybody else got another question of either Mr. Martinez or perhaps our colleague Mr. Barr, who is cosponsoring this?

Ms. LOFGREN. Just a quick question, and it is only stimulated by the Justice Department's analysis. The Justice Department analysis suggests that we may need to, and I don't have language, but to more closely define security officers so that we know—you know, I think we know what we are talking about, but that they suggest the definition could allow for some confusion, receptionist and others, that weren't intended, and I am just wondering whether between now and full committee we could get it, see if the Justice Department has defining language, or perhaps you are satisfied that that is resolved?

Mr. BARR. Would the gentlelady yield?

Ms. LOFGREN. Certainly.

Mr. BARR. We certainly would be most happy to see if any further adjustments need to be made. Certainly, if we can make this a better bill after hopefully it gets through the committee—the subcommittee before committee—we definitely will do that. We have worked very closely with the Bureau and certainly with the private security firms and organizations in the country as well, and we will certainly continue to do that.

Ms. LOFGREN. Thank you, Mr. Chairman.

Mr. MCCOLLUM. Thank you, Ms. Lofgren.

Does anyone else have a question of Mr. Martinez or Mr. Barr?

Thank you very much for coming.

Next we have got Representative Dick Chrysler of the Eighth District of Michigan.

You have a piece of legislation before us. We are beginning to get in the groove of doing these bills this morning. You are welcome

to make a statement, and your statement, as those of your colleagues, will be in toto put in the record, without objection, but you may summarize or give us your thoughts.

Thank you. Please proceed.

STATEMENT OF HON. DICK CHRYSLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. CHRYSLER. Thank you, Mr. Chairman and members of the committee. Thank you for the opportunity to appear before you today to discuss what I believe is very important and much needed legislation, the Crimes Against Children and the Elderly Increased Punishment Act.

Day after day, we see news accounts of criminals committing violent acts throughout our communities only to walk away with little or no punishment. You only need to watch the local evening news on any given night to see the havoc criminals create in our neighborhoods. Too often these criminals are deterred from their violent actions because they know the expected benefits of their crimes far outweigh any possible penalties. If we are to decrease the rate of crime in our country, I believe it is time for the criminals to be more afraid of us than we are of them.

I believe this is an opportunity to put the word "punishment" back into the criminal justice system.

While crimes of any degree are unacceptable, it is even more disturbing when violent criminals prey upon those in society least able to defend themselves, our children and our seniors. These criminals know exactly what they are doing and deserve increased punishment.

That is why I introduced the Crimes Against Children and the Elderly Increased Punishment Act legislation. It will provide for an automatic increase in the length of criminal sentences for crimes committed against children under 12 years of age and seniors 65 years and older.

Mr. Chairman, crimes against the children and senior citizens across the country today are serious and remain at intolerable levels. From 1985 to 1991, there was a 90-percent increase in personal crimes committed against senior citizens, from 627,000 in 1985 to 1,146,000 in 1991.

While there has been a 12-percent decrease in the number of homicides from 1980 to 1994, the homicide rate for children increased in that period. From 1985 to 1993, there was a 47-percent increase in homicides of children.

Increasing the penalties for those who would hurt our children and elderly will provide the needed protection for these vulnerable citizens while giving criminals the punishment they deserve.

This legislation will send a clear signal to those who commit these cowardly acts, and their actions will—and says that their actions will not be tolerated and they will face certain and severe punishment.

The Increased Punishment Act amends the Violent Criminal Control Act of 1994 to provide for automatic increases in the sentencing guidelines for violent crimes of assault, homicide, rape, and adds robbery to the Federal definition of "violent crimes."

While this legislation would apply only to crimes prosecuted under Federal laws, as my friend and the chairman of the full committee, Henry Hyde, has said, this will serve as a guide for future actions at the State level. In addition, it will send a signal to criminals throughout the Nation that we are serious about getting tough on time and we cannot allow the most vulnerable members of our society to be left unprotected. Criminals must know that if they are to inflict harm upon our children and seniors, there will be a heavy price to pay.

Already in the 104th Congress, the House of Representatives has acted to dramatically empower local law enforcement. The Increased Punishment Act would be another step in the right direction toward a safer and more secure society for our families.

American families have a right to be safe in their homes and on their streets and in their neighborhoods. If criminals seek to violate this right, they should expect swift and sure punishment. The Crimes Against Children and the Elderly Increased Punishment Act seeks to send this very message to the criminal.

Thank you.

[The prepared statement of Mr. Chrysler follows:]

PREPARED STATEMENT OF HON. DICK CHRYSLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman and Members of the Committee, thank you for the opportunity to appear before you today to discuss what I believe is very important and much-needed legislation, the Crimes Against Children and the Elderly Increased Punishment Act.

Day after day, we see news accounts of criminals committing violent acts throughout our communities, only to walk away with little or no punishment. You only need to watch the local evening news on any given night to see the havoc criminals wreak in our neighborhoods.

Too often, these criminals are not deterred from their violent actions because they know the expected benefits of their crimes far outweigh any possible penalties. If we are to decrease the rate of crime in our country, I believe it is time for the criminals to be more afraid of us than we are of them. I believe it is time to put the word punishment back in the criminal justice system.

While crimes of any degree are unacceptable, it is even more disturbing when violent criminals prey upon those in society least able to defend themselves: our children and our seniors.

That is why I introduced the Crimes Against Children and Elderly Increased Punishment Act, legislation that will provide for an automatic increase in the length of criminal sentence for crimes committed against children under 12 years of age and seniors 65 years and older.

Mr. Chairman, crimes against children and senior citizens across the country today are serious and remain at intolerable levels.

From 1985 to 1991, there has been a 90% increase in personal crimes committed against senior citizens, from 627,318 in 1985 to 1,146,929 in 1991.

While there has been a 12% decrease in the number of homicides from 1980 to 1994, the homicide rate for children increased in that period. From 1985 to 1993, there has been a 47% increase in homicide of children.

In 1992, one out of every six rape victims (16%) was a female child under the age of twelve. This figure was drawn from only the 12 states that report ages on victims, and in all likelihood is a conservative estimate due to the many rapes that go unreported.

Increasing the penalties for those who would hurt our children and elderly will provide the needed protection for these vulnerable citizens, while giving criminals the punishment they deserve. This legislation will send a clear signal to those who commit these cowardly acts that their actions will not be tolerated and they will face certain and severe punishment.

The Increased Punishment Act amends the Violent Crime Control Act of 1994 to provide for automatic increases in the sentencing guidelines for the violent crimes

of assault, homicide, rape, and adds robbery to the federal definition of violent crime.

As you know, Mr. Chairman, under current federal guidelines, sentencing for criminal acts is determined under a ranked offense level that is deemed commensurate with the crime. There are currently 43 levels by which sentencing is determined; this legislation will require an automatic increase of *five* levels when determining the length of the sentence for a criminal who commits a violent crime against a child or senior citizen.

For example, an individual convicted of robbery of a child or senior begins with a base offense level of 20, equating to 33 to 41 months (2½ to 3½ years) in jail. This legislation would *automatically* raise the offense level to 25, increasing the sentence to 57 to 71 months (4½ to 6 years), adding an additional 2 to 3 years of incarceration.

An individual convicted of assault with intent to commit murder faces a base offense level of 28, equating to 78–97 months (6½ to 8 years) in jail. If the victim was a child or senior, the base offense level would rise to 33, increasing the sentence to 135–168 months (11 to 14 years), an additional 5 to 6 years of incarceration.

While this legislation would only apply to crimes prosecuted under federal laws, as my friend and the Chairman of the full Committee Henry Hyde has said, this will serve as a guide for future action at the state level. In addition, it will send a signal to criminals throughout the nation that we are serious about getting tough on crime.

We cannot allow the most vulnerable members of our society to be left unprotected. Criminals must know that if they are to inflict harm upon our children and seniors, there will be a heavy price to pay.

Already in the 104th Congress, the House of Representatives has acted to dramatically empower local law enforcement. The Increased Punishment Act would be another step in the right direction toward a safer, more secure society for our families.

American families have a right to be safe in their homes, on their streets, and in their neighborhoods. If criminals seek to violate this right, they should expect swift and sure punishment. The Crimes Against Children and the Elderly Increased Punishment Act seeks to send this very message to criminals.

Mr. MCCOLLUM. Thank you very much, Mr. Chrysler.

Does anybody have a question they wish to ask?

Ms. Lofgren.

Ms. LOFGREN. I do.

I very much agree with the intent of what you are trying to do here, and I did have—I don't have proposed amendments today, but in looking through the Justice Department's analysis, they suggest that the definition section on page 2, starting on line 10, could be expanded to include even more offenses, and I think what I was going to suggest is, between now and the full committee, that we—you and perhaps the committee staff could consult with the Justice Department and see if we couldn't expand the crimes included, if they are correct. And I don't think that is at all contrary to what you are trying to achieve, and I agree with you.

And I wanted to mention that and make that suggestion, Mr. Chairman.

And then the other question I had: "Child" is defined as a person who is 11 years of age or younger.

Now, not going into the case law but just as a mother, I have an 11-year-old and I have a 14-year-old, and my 14-year-old is still a child, and I—the Justice Department suggested that we might also include individuals who a perpetrator should have known was a vulnerable person.

And I again don't want to offer an amendment today, but I would like to suggest that, working with the author and perhaps the Justice Department and staff between now and the full committee, that we might not expand that definition, because certainly there

are young boys and girls who are older than 11 but who are vulnerable, and the intent is to make sure that we do our very best to make sure that the vulnerable amongst us receive the most protection.

Along those lines, the Justice Department also suggested—frankly, it is not something I had thought of, but it is correct—that there are people who are fully adult but because of, for example, a disability or a developmental disability, they are as vulnerable as a small child, and perhaps you might want to add that to the definition of the bill to expand it.

I didn't have a chance to talk to Mr. Chrysler before the hearing. My guess is, none of these would be contrary to what he is trying to achieve, and I would just recommend that between now and full committee perhaps we could add those to the bill.

Mr. MCCOLLUM. If the gentlelady will yield, they both sound like good suggestions to me. We will certainly work with her and Mr. Chrysler on those suggestions as we move to mark up on this bill.

Mr. CHRYSLER. I am sure there is room for flexibility in all of this, certainly.

Mr. MCCOLLUM. Mr. Coble, do you wish to ask a question?

Mr. COBLE. I came in late, Mr. Chairman. I might have missed this.

Dick, in a crime of violence against an elderly person or a child covered by your bill, how much longer or more severe would the sentence typically be under your bill?

Mr. CHRYSLER. Well, for an example, an individual convicted of a robbery of a child or a senior begins with a base offense level of 20, and there are 43 levels in the Sentencing Guidelines. That equates to about 33 to 41 months, 2 and a half to 3 and a half years, in jail. This legislation would automatically raise the offense level to 25, increasing the sentence to 57 to 71 months or 4½ to 6 years, adding an additional 2 to 3 years of incarceration.

Mr. COBLE. Thank you, Mr. Chairman.

Mr. MCCOLLUM. Are there any other questions for Mr. Chrysler?

If not, thank you very much, Dick, for coming and testifying. We really appreciate it.

Mr. MCCOLLUM. Mr. Fox, you are next on the list. I know we have got some who have been here waiting longer than you, but we were going to go in the order on here.

Mr. Royce, you have been here quite a while.

Do you want to yield to him on this?

Mr. FOX. Mr. Royce is first.

Mr. MCCOLLUM. Do you want to yield to him on this?

Mr. FOX. I yield to Mr. Royce.

Mr. ROYCE. Thank you, Mr. Fox.

Mr. MCCOLLUM. If you do, I would be glad to take Mr. Royce up next.

Mr. Royce, you are recognized.

STATEMENT OF HON. EDWARD R. ROYCE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. ROYCE. Mr. Chairman, thank you, and I want to thank the members of the committee.

I first became interested in stalking crimes about 6 years ago, Mr. Chairman, when at that time four different women in my county went to the police and pleaded for protection. The police told them there was nothing they could do until an act of violence was committed, and that it wasn't a crime just to threatening to kill someone. In each case, these victims subsequently lost their lives. One officer told me at the time, that the hardest thing he ever had to do in his life was to tell someone, "I know you have been threatened with death, but I can't act until you are physically attacked." She consequently lost her life.

Well, the result, Mr. Chairman, was the California antistalker law, which has been upheld in the courts and versions of which have now been adopted in all 50 States and in the District of Columbia.

Unfortunately, State laws have not proven enough of a deterrent to stalkers, who are now crossing State lines to pursue their victims.

As you know, many times victims are told, "Get away from your stalker, move—maybe to another State," and in these cases the stalker follows the victim.

This bill, H.R. 2980, has a new section to title 18, interstate stalking, to resolve the problem. The bill is consistent with last year's domestic violence legislation, which has an antistalker provision, which I had proposed, the provision only applies in that legislation in cases where the victim is a spouse or intimate partner. We found that many people, as many as 50 percent, are stalked by someone other than a spouse or intimate partner and they need protection.

I will point out the rising young actress, Rebecca Schaeffer, was killed on her doorstep by an obsessed fan. Judges who sentence people to jail; district attorneys; many people who are simply followed by someone who is obsessed—become stalker victims.

No one is immune from the crime; but the problem is, when people leave their home State they still need protection. So this bill defines interstate stalking as crossing a State line with the intent to injure or harass another person and, in so doing, placing that person in reasonable fear of death or serious bodily injury to them or their immediate family.

We need the bill, as I said, because people are falling between the cracks. I am familiar with a case where a woman was stalked for 10 years by someone who only knew her from high school and became obsessed with her. They never even talked. He would call her, threaten her. He showed up at her home with guns, handcuffs, and a rope one day and attempted to abduct her. The result was a 10-hour standoff with the police, ending when he was arrested and sent to prison.

Well, as soon as he got out of prison, he instantly jumped parole and disappeared. His victim called me. She had moved to a different State, and, luckily, it was because we had contacted the California attorney general that the stalker was picked up and reincarcerated.

This bill is needed to bridge the gap between police in different States, to catch stalkers who might otherwise fall between the cracks when they cross State lines.

In fact, I have in the audience two women from New Jersey, Lisa Singleton and Jamie Winters, who worked on securing passage of antistalker legislation in that State and who can testify to the problems of stalkers crossing State lines. And I know we are not to have witnesses here today, but I would just like to ask them to stand, if I could, Mr. Chairman, and submit their written statement for the record. So at this time, if I could ask them to stand.

Mr. MCCOLLUM. Certainly.

Mr. ROYCE. Thank you, Mr. Chairman.

I urge you to pass this bill and give meaningful protection to women or anyone whose life is threatened by a stalker.

Mr. Chairman, in the meantime, counsel has raised a suggestion related to the bill. For some reason, there has been a rash of stalking on military bases and in post offices, perhaps it has to do with stress, but I was approached by postal officials who asked for protection, and I am aware of a case in which a woman was being stalked on a military base and, unfortunately, lost her life. These cases also fall between the cracks, and the suggested amendment to the bill would make it apply to the territorial and maritime properties of the United States.

I have language which we have prepared with counsel for an amendment which will cover cases of this type of stalking also on a military base or a U.S. postal office. So I think it will help provide a modicum of protection to those who serve their country, and I offer that as an author's amendment.

[The prepared statement of Mr. Royce follows:]

PREPARED STATEMENT OF HON. EDWARD R. ROYCE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Thank you, Mr. Chairman. I became seriously interested in stalking crimes about six years ago, when three different women, stalking victims, in Orange County, California, went to the police and pleaded for protection. The police told them there was nothing they could do until an act of violence was committed—that it wasn't a crime to just threaten to kill someone. Each of these women subsequently died at the hands of their stalker. One officer told me it was the hardest thing he ever had to do—to tell those women that he couldn't protect them.

The result, as you noted, Mr. Chairman, was the California Anti–Stalking law, which has been upheld in the courts and versions of which have now been adopted in all 50 states and the District of Columbia. Unfortunately, state laws have not proven enough of a deterrent to stalkers, who will cross even state lines to pursue their victim. This bill, H.R. 2980, adds a new section to Title 18 of the U.S. Code: Section 2261 A, Interstate Stalking, to resolve the problem.

The bill is consistent with last year's domestic violence legislation (which has an anti-stalker provision but only applies in cases where the victim is a "spouse or intimate partner"). We've found that many people, as many as 50 percent, are stalked by someone other than a spouse or intimate partner, and they need protection. The rising young actress, Rebecca Schaeffer, was killed on her doorstep by an obsessed fan. Judges, who sentence people to jail, district attorneys, even politicians—can be stalker victims . . . no one is immune from this crime. But the problem is when people leave their home state: they still need protection.

This bill defines interstate stalking as crossing a state line with intent to injure or harass another person and in so doing placing that person in reasonable fear of death or serious bodily injury to them or their immediate family. Why do we need this bill? Because people can fall between the cracks.

I'm familiar with a case, for example, where a woman was stalked for ten years by someone who just knew her from high school and became obsessed with her. They never even dated. He would call her . . . threaten her; he even showed up at her home with guns, handcuffs an rope one day and attempted to abduct her. The result was a 10-hour standoff with the police, ending when he was arrested and sent to prison.

As soon as the stalker got out last year, he jumped parole and disappeared. His victim, who now lived in a different state, was terrified, and rightly so. It was only because she called me and I called the California Attorney General that the stalker was picked up in another state and re-incarcerated before he could realize his life-long obsession to kidnap and kill her. This bill is needed to bridge the gap between police in different states, to catch stalkers who might otherwise fall between the cracks when they cross state lines.

I urge you to pass this bill and give meaningful protection to women, or to anyone whose life is threatened by stalkers. Thank you.

Mr. MCCOLLUM. Thank you, Mr. Royce.

As you are well aware, stalking is something that this subcommittee, and the Congress, is very concerned about. We have addressed it to some extent in the previous Congress, and we are most willing to look back, as we are with your bill today, at the subject again, because it is very grievous, and if there is any way we can do anything that would deter that, we certainly would want to do that.

I personally don't have any questions. But I do understand your bill.

Does anyone else, Ms. Lofgren—anyone else have a question?

Mr. Barr.

Mr. BARR. Thank you.

Mr. Royce, have you or the bill's proponents spoken directly with the FBI? Do they concur in the Department of Justice's support of the legislation?

Mr. ROYCE. I believe they do, but I will be happy, Mr. Barr, to make a formal inquiry of support.

Law enforcement associations are in support of the bill, but in response to your question, I will be happy to talk to the Federal Bureau of Investigation.

Mr. BARR. OK. And just to clarify, I see the Department's response here, and I know they support the bill, and obviously you do. Do they believe, and do you believe, that the existing Federal laws are simply unable to reach this activity even with the broad scope of use of telephones under current law and the use of the conspiracy statutes and so forth?

Mr. ROYCE. Let me just give an example, and I will submit some testimony from some of the—victims' rights associations that are here.

But let us take a situation where someone in New Jersey obtains protection from a stalker, but let us say that that individual actually works in New York City, so she has to go across a State line. And let us say the stalker is cognizant of that and, thus, is able to harass her in the neighboring State of New York, where she does not have protection.

Basically, what we are doing is taking care of those people who are tracked across State lines by their stalker.

Now I will submit for you some of the testimony so you can actually see the examples, the specific examples, of why we need the legislation in these cases.

Mr. BARR. OK. Thank you, Mr. Royce.

Thank you, Mr. Chairman.

[Information not received by time of printing.]

Mr. MCCOLLUM. Thank you, Mr. Barr.

Are there any other questions of Mr. Royce?

If not, thank you very much for presenting your bill today.

Mr. ROYCE. Thank you, Mr. Chairman.

Mr. MCCOLLUM. Mr. Fox, you are now recognized to discuss your bill—the Honorable Jon Fox of the 13th District of Pennsylvania.

STATEMENT OF HON. JON D. FOX, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. FOX. Thank you, Mr. Chairman, for offering me the opportunity to testify before your committee and the members of your subcommittee about important issues facing the American judicial system.

I speak of jury and witness tampering and witness retaliation. This is an overlooked shortcoming of our criminal statutes which has allowed three offenses to create opportunities and incentives for criminals in this country.

I have introduced three bills, with the support of members of the committee, which I believe, with your help, will close this loophole, provide prosecutors with additional leverage in combating criminals, and ensure that justice in our courts will not be impeded by additional criminal activity.

Currently, tampering in a Federal court can bring a sentence which is significantly less than that which comes with serious crimes, such as first and second-degree murder, kidnapping, and air piracy, and drug trafficking.

Over the years, as Federal penalties for these crimes have increased, the penalties for tampering with a witness or jury have failed to keep pace. This discrepancy has thereby created an incentive for individuals standing trial to attempt to intimidate witnesses and jurors or to offer a bribe.

Take, for example, the case in Newark in 1988 where 20 defendants stood trial on charges of racketeering in connection with their alleged membership in the Lucchese crime family. All 20 defendants were acquitted.

However, in 1994 two of the defendants pleaded guilty to jury tampering after codefendants in a separate case turned them in. Instead of being able to apply a sentence equal to that of the original crime, those two defendants benefited from the present system and faced a maximum sentence of only 5 years for jury tampering.

What is worse than a case like this is that the most successful tampering goes unnoticed or at least unprosecuted, leading to the acquittal of dangerous criminals, high numbers of unsolved cases, and a perceived failure of our justice system in this instance.

I have introduced these bills in the 104th Congress which will help correct the current inequity in tampering sentences. H.R. 1143, 1144, and 1145 address the issues of witness retaliation and tampering, and jury tampering, respectively. By equating the penalties for these crimes with the potential sentencing for other Federal crimes, this legislation creates a disincentive for those facing stiff sentences for egregious offenses to tamper with a jury or intimidate a witness.

As a former assistant DA in Montgomery County, PA—and I know several members on the panel themselves have been former U.S. attorneys and prosecutors—I have experienced, as you have, firsthand the frustration faced by citizens and members of the

criminal justice community when cases go unsolved because intimidated witnesses will not step forward. I know Chief Heineman has seen this same kind of experience in his law enforcement career.

I also sympathize with the distinguished prosecutors such as Montgomery County District Attorney Michael Marino from my district and the district attorney of Philadelphia, Lynn Abraham, who daily face these challenges posed by both jury and witness tampering and witness retaliation. Both have endorsed my legislation as has the National District Attorneys Association and the Pennsylvania District Attorneys Association.

At the State level, penalties for jury tampering can vary State to State from less than a year up to 7 years. Ms. Abraham recently blamed witness intimidation as the chief cause of a high number of unsolved homicides in Philadelphia, PA, which neighbors my district. Twenty years ago Philadelphia police solved 86 percent of homicides, but last year that number was down to 58 percent, in large part due to the problems that I have outlined.

I am particularly hopeful that the legislation before you today will set a standard for the States to follow and lead to greater uniformity nationwide for tampering penalties, increased security for jurors and witnesses and a more effective system of justice for all.

Mr. Chairman, I look forward to working with you and members of your subcommittee to address the challenges of our criminal justice system in a bipartisan manner and to move forward this corrective legislation.

We have submitted with our packet the letter of endorsement by the National District Attorneys Association and the Pennsylvania District Attorneys Association. At this time, I would like to enter in the record, if I may, Mr. Chairman, the letter from the district attorney of Montgomery County, PA, as well as the District Attorney from Philadelphia, Pennsylvania.

Mr. MCCOLLUM. Thank you very much, Mr. Fox.

[The prepared statement of Mr. Fox follows:]

PREPARED STATEMENT OF HON. JON D. FOX, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

THANK YOU, MR. CHAIRMAN, FOR OFFERING ME THE OPPORTUNITY TO TESTIFY BEFORE YOU TODAY ABOUT IMPORTANT ISSUES FACING THE AMERICAN JUDICIAL SYSTEM -- JURY AND WITNESS TAMPERING AND WITNESS RETALIATION. AN OVERLOOKED SHORTCOMING OF OUR CRIMINAL STATUTES HAS ALLOWED THESE THREE OFFENSES TO CREATE OPPORTUNITIES AND INCENTIVES FOR CRIMINALS IN THIS COUNTRY. I HAVE INTRODUCED THREE BILLS WHICH I BELIEVE WILL CLOSE THIS LOOPHOLE, PROVIDE PROSECUTORS WITH ADDITIONAL LEVERAGE IN COMBATTING CRIMINALS, AND ENSURE THAT JUSTICE IN OUR COURTS MAY NOT BE IMPEDED BY ADDITIONAL CRIMINAL ACTIVITY.

CURRENTLY, TAMPERING IN A FEDERAL COURT CAN BRING A

MAXIMUM SENTENCE OF FIVE YEARS IN PRISON. THIS PENALTY IS SIGNIFICANTLY LESS THAN THAT WHICH COMES WITH SERIOUS CRIMES SUCH AS FIRST AND SECOND DEGREE MURDER, KIDNAPPING, AIR PIRACY AND DRUG TRAFFICKING. OVER THE YEARS, AS FEDERAL PENALTIES FOR THESE CRIMES HAVE INCREASED, THE PENALTIES FOR TAMPERING WITH A WITNESS OR JURY HAVE FAILED TO KEEP PACE. THIS DISCREPANCY HAS, THEREBY, CREATED AN INCENTIVE FOR INDIVIDUALS STANDING TRIAL TO ATTEMPT TO INTIMIDATE WITNESSES AND JURORS OR TO OFFER A BRIBE.

TAKE, FOR EXAMPLE, THE CASE IN NEWARK IN 1988 WHERE 20 DEFENDANTS STOOD TRIAL ON CHARGES OF RACKETEERING IN CONNECTION WITH THEIR ALLEGED MEMBERSHIP IN THE LUCCHESE CRIME FAMILY. ALL 20 DEFENDANTS WERE ACQUITTED. HOWEVER, IN 1994, TWO OF THE DEFENDANTS PLEADED GUILTY TO JURY TAMPERING AFTER CO-DEFENDANTS IN A SEPARATE CASE TURNED THEM IN. INSTEAD OF BEING ABLE TO APPLY A SENTENCE EQUAL TO THAT OF THE ORIGINAL CRIME, THOSE TWO DEFENDANTS BENEFITTED FROM THE PRESENT SYSTEM AND FACED A MAXIMUM SENTENCE OF ONLY FIVE YEARS FOR JURY TAMPERING. WHAT IS WORSE THAN A CASE LIKE THIS, IS THAT THE MOST SUCCESSFUL TAMPERING GOES UNNOTICED, OR AT LEAST UNPROSECUTED,

LEADING TO THE ACQUITTALS OF DANGEROUS CRIMINALS, HIGH NUMBERS OF UNSOLVED CASES, AND A PERCEIVED FAILURE OF OUR JUSTICE SYSTEM.

I HAVE INTRODUCED THREE BILLS DURING THE 104TH CONGRESS WHICH WILL CORRECT THE CURRENT INEQUITY IN TAMPERING SENTENCES. H.R. 1143, H.R. 1144, AND H.R. 1145 ADDRESS THE ISSUES OF WITNESS RETALIATION AND TAMPERING AND JURY TAMPERING, RESPECTIVELY. BY EQUATING THE PENALTIES FOR THESE CRIMES WITH THE POTENTIAL SENTENCES FOR OTHER FEDERAL CRIMES, THIS LEGISLATION CREATES A DISINCENTIVE FOR THOSE FACING STIFF SENTENCES FOR EGREGIOUS OFFENSES TO TAMPER WITH A JURY OR INTIMIDATE A WITNESS.

AS A FORMER ASSISTANT DISTRICT ATTORNEY IN MONTGOMERY COUNTY PENNSYLVANIA, I HAVE EXPERIENCED FIRSTHAND THE FRUSTRATION FACED BY CITIZENS AND MEMBERS OF THE CRIMINAL JUSTICE COMMUNITY WHEN CASES GO UNSOLVED BECAUSE WITNESSES WILL NOT STEP FORWARD. I ALSO SYMPATHIZE WITH DISTINGUISHED PROSECUTORS SUCH AS DISTRICT ATTORNEY MICHAEL MARINO FROM MY DISTRICT AND DISTRICT ATTORNEY LYNNE ABRAHAM OF PHILADELPHIA WHO DAILY FACE THE CHALLENGES POSED BY BOTH JURY AND WITNESS TAMPERING

AND WITNESS RETALIATION. BOTH HAVE ENDORSED MY LEGISLATION AS HAS THE NATIONAL DISTRICT ATTORNEYS ASSOCIATION AND THE PENNSYLVANIA DISTRICT ATTORNEYS ASSOCIATION.

AT THE STATE LEVEL, PENALTIES FOR JURY TAMPERING CAN VARY STATE TO STATE FROM LESS THAN A YEAR UP TO SEVEN YEARS. MS. ABRAHAM RECENTLY BLAMED WITNESS INTIMIDATION AS A CHIEF CAUSE OF THE HIGH NUMBER OF UNSOLVED HOMICIDES IN PHILADELPHIA, WHICH NEIGHBORS MY DISTRICT. TWENTY YEARS AGO PHILADELPHIA POLICE SOLVED 86 PERCENT OF HOMICIDES BUT, LAST YEAR THAT NUMBER WAS DOWN TO 58 PERCENT. I AM PARTICULARLY HOPEFUL THAT THE LEGISLATION BEFORE YOU TODAY WILL SET A STANDARD FOR THE STATES TO FOLLOW AND LEAD TO GREATER UNIFORMITY NATIONWIDE FOR TAMPERING PENALTIES, INCREASED SECURITY FOR JURORS AND WITNESSES, AND A MORE EFFECTIVE SYSTEM OF JUSTICE FOR ALL.

MR. CHAIRMAN, I LOOK FORWARD TO WORKING WITH YOU AND THE MEMBERS OF THE SUBCOMMITTEE TO ADDRESS THE CHALLENGES OF OUR CRIMINAL JUSTICE SYSTEM IN A BIPARTISAN MANNER AND TO SWIFTLY MOVE FORWARD THIS CORRECTIVE LEGISLATION.

NATIONAL DISTRICT ATTORNEYS ASSOCIATION
99 Canal Center Plaza • Suite 510 • Alexandria, Virginia 22314
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Office of the President

June 2, 1995

The Honorable Jon D. Fox
510 Cannon House Office Building
Washington, DC 20515-3813

Dear Congressman Fox:

The Executive Committee of the National District Attorneys Association strongly supports your efforts to fight jury tampering and witness retaliation. Our system of criminal justice is continually under attack as criminals actively seek out citizens who serve as jurors or witnesses and attempt to intimidate or coerce them. In a similar vein jurors and witnesses, as well as prosecutors and judges, are subjected to harassment and civil suit to discourage them from discharging their sworn duties.

The foundations of the American system of criminal justice are built upon the right of trial by jury and the presentation of evidence in open proceedings. The mounting attacks on jurors and witnesses undermine these sacrosanct rights and call to task our entire judicial system. The legislation you have initiated sends a strong message to those who would trifle with our criminal justice system.

We urge the Congress to take resolute and timely action on your legislative initiatives. We cannot afford to idly watch our system of justice crumble under the attacks of wanton criminals those who selfishly ally themselves with their causes.

Sincerely,

Robert L. Deschamps
Robert L. Deschamps
President

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FOUNDED 1912

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[illegible]
Clinton County

IMMEDIATE-PAST PRESIDENT
WILLIAM H. RYAN, JR.
Delaware County

EXECUTIVE COMMITTEE
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MICHAEL D. MARINO
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LEGISLATIVE CHAIRPERSON
LYNNE M. ABRAHAM

CHAIRMAN OF APPEALS
ROBERT E. COLVILLE

EXECUTIVE DIRECTOR
JANICE MARTINO-GOTTSHALL

May 17, 1995

Honorable Jon D. Fox
United States House of Representatives
510 Cannon Building
Washington D.C. 20515-3813

RE: [illegible]
AND WITNESS RETALIATION

Dear Congressman Fox:

Thank you for your letter dated March 7, 1995, in which you request the Pennsylvania District Attorneys Association (PDAA) to review legislation you are proposing to address the crimes of jury tampering and witness retaliation. The Executive Committee of the Pennsylvania District Attorneys Association met on May 5, 1995 and reviewed the legislation.

I am pleased to report that upon Montgomery County District Attorney Michael D. Marino's favorable recommendation, the Executive Committee has voted to endorse this legislation.

We appreciate your interest in the position of Pennsylvania's District Attorneys on issues such as this, and thank you for directing this matter to our attention.

Sincerely,

Claude A. L. Shields
President

cc. Honorable Michael D. Marino

Mr. MCCOLLUM. I have a couple of quick questions.

Why should, in your judgment, the witnesses and witness tampering be punished at the maximum level of imprisonment for the crime about which the witness was to testify? Or why should we be punishing the person who does that witness tampering at that level?

Mr. FOX. We are not punishing the witness but the person who tampered with the witness.

Mr. MCCOLLUM. I didn't say that correctly. You are correct to correct me.

Mr. FOX. I am sorry. I mean, it is an issue that certainly from my perspective, whether it be a juror or a witness, if they are tampered with, our whole system doesn't move forward; and we might have murder cases or other high crimes remaining unresolved. Frankly, it goes to the heart of the justice system.

So that is why I believe that the penalties should be equal to the crime for which there originally was a prosecution. I will leave it to the committee, obviously, during deliberations, if you think there should be any amendments or changes which would make a good bill better.

Mr. MCCOLLUM. No, I am not suggesting otherwise. I am just curious as to the rationale that you put into it to make that particular distinction. That is all.

Does anybody else have a question you want to ask Mr. Fox?

Ms. LOFGREN. No.

Mr. MCCOLLUM. Anybody?

I think that, generally speaking, we think what you are trying to do is a good bill. We wouldn't be having you up here today.

Mr. FOX. I appreciate it.

Mr. MCCOLLUM. You are quite welcome. Your statement and the accompanying documents will be submitted without objection.

Mr. FOX. We have copies for members of the committee.

Thank you very much, Mr. Chairman and members of the committee.

Mr. MCCOLLUM. Thank you, Mr. Fox.

[The information follows:]

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PENNSYLVANIA DISTRICT ATTORNEYS ASSOCIATION

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CLAUDE A. LORD SHIELDS
Schuylkill County

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LEGISLATIVE CHAIRPERSON
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CHAIRMAN OF APPEALS
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EXECUTIVE DIRECTOR
JANICE MARTINO-COTTSHALL

May 17, 1995

Honorable Jon D. Fox
United States House of Representatives
510 Cannon Building
Washington D.C. 20515-3813

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AND WITNESS RETALIATION

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Sincerely,

Claude A. L. Shields
President

cc. Honorable Michael D. Marino

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COUNTY DETECTIVE BUREAU (610) 278-3368 FAX (610) 278-3643

March 5, 1996

The Honorable Henry Hyde
Chairman
House Judiciary Committee
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Hyde:

I am writing regarding my wholehearted support for three measures before your committee - HR 1143 Witness Retaliation; HR 1144 Witness Tampering and HR 1145 Jury Tampering.

I urge you and the members of your committee to support this important legislation which will curtail the intimidation and tampering of witnesses and jurors at the federal level and will provide a model for similar state legislation.

As a prosecutor, I fully endorse these extraordinary bills and the other anti-crime initiatives offered by Congressman Jon Fox. This legislation sends a clear message to those who would attempt to change the outcome of a trial through nefarious means that it will not be tolerated.

Thank you for your kind consideration of these important bills.

Sincerely,

Michael D. Marino
District Attorney
Montgomery County Pennsylvania

MDM/ts

DISTRICT ATTORNEY'S OFFICE
1421 ARCH STREET
PHILADELPHIA, PENNSYLVANIA 19102
686-8703

LYNNE ABRAHAM
DISTRICT ATTORNEY

March 5, 1996

The Honorable John D. Fox
510 Cannon House Office Building
Washington, DC 20515-3813

Re: Support of H.R. 1143, H.R. 1144 and H.R. 1145

Dear Congressman Fox:

Thank you for seeking my input on the above-referenced proposals which would increase the penalties for those who commit the criminal acts of Witness Retaliation (H.R. 1143), Witness Tampering (H.R. 1144) and Jury Tampering (H.R. 1145).

I join with both the National District Attorneys Association and Pennsylvania District Attorneys Association in supporting these critical measures.

The lack of meaningful sanctions emboldens those charged with crimes and other unscrupulous individuals to tamper with, intimidate or retaliate against witnesses, jurors or their relatives. Thus, the cornerstone of our legal system, i.e., the right of the people to seek redress in our courts, has been seriously undermined, if not entirely thwarted. Your proposals, if passed, would replace the current unacceptable sentencing scheme with sanctions that are proportionate with the gravity of the charges.

These important anti-crime measures will serve to protect and support those individuals who bravely come forward to aid in the service of justice and protection of the public safety.

I urge Congress to take action on these proposals which positively impact upon criminal prosecutions.

Sincerely,

LYNNE ABRAHAM
District Attorney

LA:eg

Mr. MCCOLLUM. Mr. Zimmer, you are the next one up on our list. The Honorable Dick Zimmer, the 12th District of New Jersey, has a piece of legislation before us, H.R. 2137. You are recognized.

STATEMENT OF HON. DICK ZIMMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. ZIMMER. Thank you, Mr. Chairman. I appreciate the opportunity to appear here on behalf of my bill, H.R. 2137.

I am sure you are aware that in 1994, during the debate on the crime bill that was enacted that year, there was a considerable effort to include a provision to allow communities to be notified of the presence of a sex offender in their neighborhood. That was a fight that Jennifer Dunn and Nathan Deal had a major role in; and I know you, Mr. Chairman, and the ranking Democrat on this committee were instrumental in making sure that community notification became part of the Federal crime bill.

We sought that provision after the tragic rape and murder of 7-year-old Megan Kanka of Hamilton, NJ, allegedly by a twice-convicted sex offender. With your help, our community notification measure was overwhelmingly supported by both the House and the Senate, and the President expressly endorsed the concept.

Thanks in large part to the Federal Megan's law, 47 States have so far enacted sex offender registration laws; and 30 of them have adopted community notification provisions. But as successful as it has been, the Federal law still needs to be strengthened. It allows but it does not require local authorities to disseminate relevant information in order to protect the public. It states that local law enforcement agencies "may release relevant information that is necessary to protect the public." Because local law enforcement agencies have no firm Federal requirement regarding a dangerous sexual predator, States have adopted different community notification standards.

For instance, New York, Pennsylvania, and my home State of New Jersey have community notification laws that require citizens to be notified when a sex offender living in their community poses a danger. But our neighboring States, Delaware and Connecticut, offer registry information only to law enforcement agencies, employers conducting background checks and others at the discretion of law enforcement agencies.

It is my fear that sexual predators will begin to move from State to State, settling in jurisdictions where they are able to ensure their anonymity. As a result, critical information will not necessarily get into the hands of those who need it the most, parents, in order to take commonsense steps to protect their children. Because of this very real possibility, Mr. Chairman, I believe we must strengthen the 1994 law so there will be a community notification standard in all 50 States.

My bill is slightly more than one page, and it only changes one word of the current law. It changes the word "may" to "shall." So it would provide law enforcement agencies "shall release relevant information that is necessary to protect the public." This change to the law would guarantee appropriate dissemination of information so that parents, school officials and community groups can responsibly use the information in order to protect their children.

Mandatory community notification has been held to be constitutional by New Jersey's Supreme Court, a court considered to be one of the more liberal high courts in the United States. With only one dissenting vote, it ruled that the rights of parents have priority over the rights of convicted sex offenders.

My legislation has the support of the National Center for Missing & Exploited Children and is strongly backed by Megan Kanka's parents, Richard and Maureen Kanka. At this time, I would like to submit testimony, written testimony, from both the National Center for Missing & Exploited Children and from the Kankas into the record, and I would like to read an excerpt from Maureen Kanka's testimony. This is what Maureen says:

"There is a need for mandatory community notification across this country. If pedophiles are going to be out on the street where they can accost our children, then parents have the right to know if they live on their streets. My daughter Megan would be alive today if I had known that my neighbor was a twice-convicted pedophile. I had the responsibility to protect my daughter. I have always told my children that I would never let anything happen to them. But I guess I lied. I could not protect my Megan as she was being raped and murdered across the street from my home. I have to live with the fact that she screamed out my name as she was being murdered. We as parents have a responsibility to Megan. You as our Government have a responsibility to all the other Megans in our country today. Please support H.R. 2137 introduced by Congressman Dick Zimmer."

Mr. Chairman, members of the committee, we do have to put the safety of our children first. Our communities do have a right to know if there is a potential threat to their children's safety. But that safety is jeopardized in every State if every State has a different notification procedure. We must strengthen the existing law and ensure that a strong, uniform Megan's law is in effect in every State. I urge your support for this, and I urge swift passage of H.R. 2137.

Thank you.

[The prepared statement of Mr. Zimmer follows:]

PREPARED STATEMENT OF HON. DICK ZIMMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. Chairman, I would like to thank you and the Ranking Member, Mr. Schumer, for inviting me to testify on my bill, H.R. 2137. You may recall that during debate on the 1994 crime bill, Jennifer Dunn, Nathan Deal and I succeeded in including a provision to allow communities to be notified of the presence of a sex offender in their neighborhood. We sought that provision after the tragic rape and murder of 7-year-old Megan Kanka of Hamilton, New Jersey, allegedly by a twice-convicted sex offender. Both you and Mr. Schumer provided important support for our efforts. With your help, our community notification measure was overwhelmingly supported by both the House and Senate, as well as by President Clinton.

Thanks in large part to the federal Megan's Law, 47 states have enacted sex offender registration laws and 30 of them have adopted community notification provisions. But, as successful as it has been, the federal law still needs to be strengthened. It allows, but does not *require*, local authorities to disseminate relevant information in order to protect society. It states that local law enforcement agencies "*may* release relevant information that is necessary to protect the public." Because local law enforcement agencies have no firm federal requirement to release information regarding a dangerous sexual predator, states have adopted different community notification standards.

New York, Pennsylvania and my home state of New Jersey, for instance, have community notification laws that require citizens to be notified when a sex offender living in their community poses a danger. But our neighbors, Connecticut and Delaware, offer registry information only to law enforcement agencies, employers conducting background checks, and others at the discretion of law enforcement agencies. It is my fear that sexual predators will begin to move from state to state, settling in jurisdictions where they are able to assure their anonymity. As a result, critical information will not necessarily get into the hands of those who need it most—parents—in order to take common-sense steps to protect their children. Because of this very real possibility, Mr. Chairman, I believe we must strengthen the 1994 law so there will be a community notification standard in all 50 states.

My bill would ensure that local law enforcement agencies "*shall* release relevant information that is necessary to protect the public." This change to the law would *guarantee* appropriate dissemination of information so that parents, school officials and community groups can responsibly use the information in order to protect their children.

Mandatory community notification has been held to be constitutional by New Jersey's Supreme Court, a court considered to be one of the most liberal in America. With only one dissenting vote, it ruled that the rights of parents have priority over the rights of convicted sex offenders.

My legislation has the support of the National Center for Missing and Exploited Children and is strongly backed by Maureen and Richard Kanka, the parents of little Megan. At this time I would like to submit testimony from each to be inserted into the committee record and read an excerpt from Maureen Kanka's testimony. "There is a need for mandatory community notification across this country. If pedophiles are going to be out on the street where they can accost our children, then parents have the right to know if they live on their streets. My daughter Megan would be alive today if I had known that my neighbor was a twice-convicted pedophile. I had the responsibility to protect my daughter. I have always told my children that I would never let anything happen to them. But I guess I lied. I could not protect my Megan as she was being raped and murdered across the street from my home. I have to live with the fact that she screamed out my name as she was being murdered. We as parents had a responsibility to Megan. You as our government have a responsibility to all the other Megan's in our country today. Please support H.R. 2137 introduced by Congressman Dick Zimmer. We have to start putting our children above their offenders."

Mr. Chairman and members of the committee, we do have to put the safety of our children first. Our communities have the right to know if there is a potential threat to their children's safety. But that safety is jeopardized if every state has different notification procedures. We must strengthen the existing law and ensure that a strong, uniform Megan's Law is in effect in every state. I urge your support for this and I urge swift passage of H.R. 2137.

Thank you.

Mr. MCCOLLUM. Mr. Zimmer, as you know, I support this legislation that you have——

Mr. ZIMMER. Thank you, Mr. Chairman.

Mr. MCCOLLUM [continuing]. But I do have questions that have been asked of me as to why that it's necessary to mandate this and why wouldn't local law enforcement be voluntarily doing this and making that decision? Is there any evidence that they are not doing it? That type of question has come up to me, and I just thought I would ask you if you could respond to that.

Mr. ZIMMER. In some States, it has been the rule. For instance, in Washington State, which was one of the very first to have community notification provisions, the requirement is permissive but still, as a rule, the community is notified.

I can't give you, State by State, the practice in some of the States that have recently enacted the notification laws, but I believe, for instance, in Connecticut and Delaware the community notification is much less practiced than it is in States where it is mandatory according to law.

The experience in the State of New Jersey and the law that was created there in response to the tremendous public demand indicates to me that the mandatory law is the best way to go. Obviously, if a State is already doing this properly, there would be no change in its procedures. But I do believe that there are a number of States that simply will not uniformly notify neighborhoods when there is a danger unless there is this Federal standard.

I want to emphasize that we are only talking about notification in the case where it is necessary to protect the public. Neither in New Jersey nor in any other State are the names of all sex offenders routinely made public. It is only to the extent that it is necessary, and I believe that that is a good—a sound protection and——

Mr. MCCOLLUM. Who makes the judgment?

Mr. ZIMMER. Well, in New Jersey, the judgment is initially made by the prosecutor, and then it is reviewed in a judicial proceeding. That was a modification of the New Jersey statute that was insisted on by the State supreme court. It is not a full-blown judicial process, and it has worked very well.

We have had several dozen of such cases where the law as interpreted by the supreme court has worked. The only time that it failed and that there was a serious problem was when a Federal district court judge, stayed the provisions of Megan's law. It resulted in the Guardian Angels leafletting downtown Englewood, NJ, in a much broader dissemination of this information than would otherwise be the case.

Mr. MCCOLLUM. Thank you.

Anyone else have a question? Ms. Lofgren.

Ms. LOFGREN. Thank you, Mr. Chairman.

I agree with you that when balancing the privacy rights of convicted child molesters and the rights of children and parents to be safe from them, you have got to come down on the side of the parents and children. I don't have any disagreement with that at all. Until we come to our senses and sentence pedophiles to life imprisonment, we will continue to have people out, and parents and children need to be protected. So these questions are not hostile to what you are trying to achieve but really exploratory to what they might mean for my State of California.

As you are aware, California has recently gone into this whole field. What we have done is establish a hotline for parents to call or anyone else who has got a good reason. We also have books that are available down at your local police department, not only with names but with pictures of people who parents ought to be alerted to. You have to provide some justification other than I just want to see, but it is not a very high standard for someone to meet. I mean, if you come in and say, I am a parent, I want to look, that is good enough.

I think although we have just gotten into that and we will see how it works, the sense in my community is that that probably is going to work pretty well. I want to make sure that as we mandate this, as I believe we should, that we also allow for some variations as States proceed, because we don't know what's going to be the best way to help parents protect their children.

Mr. ZIMMER. We do not spell out in this legislation the method of the community notification.

Now I think the proposals that are reflected in the California law are very good ones. They are different from what we do in New Jersey, but in some cases they may be superior. In New Jersey, there are some cases where law enforcement officials in the most serious cases go door to door and notify the immediate neighbors.

But in the interests and spirit of federalism we don't want to micromanage what the States do. We do, however, want to establish a clear standard in principle that notification will be done in the manner that each State deems most effective when the public needs to be protected.

Ms. LOFGREN. So, basically, we are saying we have considered the balance of rights, and we have come to a conclusion on the part of the country. We are telling States they need to do this but we are giving them discretion on how best to meet their community needs?

Mr. ZIMMER. That is correct.

Ms. LOFGREN. That is exactly what I think we ought to do.

One final question: The Justice Department, in reviewing the bill, made one additional suggestion, something that, frankly, I was not aware of until I read their analysis, that in the Violent Crime Control and Law Enforcement Act of 1994 there is a section that basically indicates that this sentencing data is—shall be treated as private data, which is really inconsistent with what we are trying to accomplish here.

The Justice Department has recommended some language that would make clear that this information really isn't to be treated as private data, and I don't think it is at all at odds with what we are trying to achieve. I would recommend, Mr. Chairman, the staff take a look at that and add it to the bill.

Mr. MCCOLLUM. We will take a look at it.

Mr. ZIMMER. In fact, most of this information is public data, and it is of public record. That is one reason why our State Supreme Court has held it to be constitutional when it is disclosed.

Ms. LOFGREN. But, apparently, there is some that were not aware of it.

Mr. ZIMMER. Yes. Certainly I would be very sympathetic to that legislation.

Mr. BARR. Mr. Chairman.

Mr. MCCOLLUM. Thank you, Ms. Lofgren. Yes, Mr. Barr.

Mr. BARR. If I could ask one quick question of Representative Zimmer?

Mr. MCCOLLUM. Sure.

Mr. BARR. Just to clarify for the record, Congressman, the people that we are requiring to register here are people who have already been convicted of a crime, is that accurate?

Mr. ZIMMER. Without exception, that is correct.

Mr. BARR. OK. Thank you.

Mr. ZIMMER. Thank you.

Mr. MCCOLLUM. Any other questions for Mr. Zimmer?

If not, thank you very much, Dick, for appearing today.

Mr. ZIMMER. Thank you.

Mr. MCCOLLUM. Our next witness is the Honorable Walter Jones, the Congressman from the Third District of North Carolina. You have a bill in, and we will be happy to hear from you. Walter, please proceed.

STATEMENT OF HON. WALTER B. JONES, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. JONES. Thank you, Mr. Chairman and members of the committee.

Thank you for this opportunity to testify before the House Judiciary Committee on an important measure that I feel deserves the committee's strong support, H.R. 2587, the War Crimes Act of 1995.

As a member of the National Security Committee, I was astonished to learn that there is no current law that provides the means for prosecution of crimes committed by foreign nationals against men and women who serve in our military. Moreover, no protection exists against these types of crimes for any American citizen in harm's way while overseas, not even to the American Red Cross workers who attempt to bring humanitarian relief to war-torn countries.

The Geneva Convention of 1949 provides the United States the legal authority to prosecute war crimes but not—but not the enforcement mechanism. The enforcement is left up to our judicial system. Unfortunately, the United States has yet to pass a law entitling U.S. prosecutors the authority to apprehend and put on trial foreign nationals accused of war crimes.

I believe this gap in Federal law is unacceptable. Our men and women in uniform are called upon to serve in hostile lands now more than ever. The specter of war crimes looms in almost every U.S. military action abroad, whether peacekeeping in Somalia as part of a United Nations force or peacekeeping in Bosnia under NATO. No guarantees exist for U.S. service personnel that they will not be the victims of a grave breach of the Geneva Convention.

Anyone who believes this legislation is unnecessary should recall the horror of the American Blackhawk pilot as he was taken prisoner in Mogadishu after his helicopter was shot down. For that matter, consider the American men and women taken prisoner by Iraq during the Gulf War.

As Americans, we have a long and cherished sense of justice. No matter where or when an atrocity may occur against an American citizen, we should empower Federal prosecutors to track down and try any known violators of the Geneva Convention.

Again, I thank Chairman McCollum and the committee for this opportunity to speak on behalf of H.R. 2587, which I believe to be important legislation. Thank you, Mr. Chairman.

[The prepared statement Mr. Jones follows:]

PREPARED STATEMENT OF HON. WALTER B. JONES, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

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As Americans, we have a long and cherished sense of justice. No matter where or when an atrocity may occur against an American citizen, we should empower Federal prosecutors to track down and try any known violators of the Geneva Convention.

Again, I thank Chairman McCollum for this opportunity to speak on behalf of this important legislation.

Mr. HEINEMAN [presiding]. Thank you, Mr. Jones.

Don't military courts or international tribunals have authority to deal with these crimes?

Mr. JONES. Well, the international courts do have, as it relates to war criminals. But let me very quickly, and this will answer your question, maybe give additional information.

This legislation was brought to my attention by a Navy pilot who was shot down over Vietnam, spent 7 years in a POW camp in a cage. He pointed out to me that after being released, he came back to America. He went to Georgetown University to get his law degree. And this was an area of concern and interest to him. And what has happened is that we did not follow the 1949 Geneva Convention when they gave us the authority to pass Federal legislation within our country, which other countries have done so, that should a war criminal come to this country that he or she, a known war criminal, could be prosecuted.

From this gentleman giving me that information and my concern for our military men and women, we took the opportunity then to pursue this a little bit further. As you know, I am not an attorney, but I believe that we should give our men and women who serve our Nation every opportunity should they become a prisoner of war, and that person who has been designated as a war criminal comes back to this country, or should be in another country, that our prosecutors, our Federal prosecutors, if they wish and see the justification, can prosecute.

Mr. HEINEMAN. Thank you.

Would this bill make it easier for the United States to extradite persons who have committed war crimes against American troops or civilians?

Mr. JONES. Absolutely, which we now do not have this on the books.

Mr. HEINEMAN. OK.

Isn't it true that countries who are a party to the Geneva Convention of 1949, such as the United States, are to search out persons who commit grave breaches of the conventions and bring them before the courts of those nations?

Mr. JONES. Well, again, you can with the—we don't have—in our country we could not bring a war criminal, who has either killed or mistreated or injured an American soldier, to this country for prosecution. And that is what we are trying to get on the books in this country, is that it is—to me, it is something that is extremely important that Congress should have passed years ago, but they did not. And I think as we can see what is happening in the world today, we are going to have—put more of our soldiers in harm's way, and I think we need this on the Federal books.

Mr. HEINEMAN. Thank you.

Any member of the committee wish to make comment on this or ask questions?

Mr. Barr.

Mr. BARR. No thanks.

Mr. HEINEMAN. Thank you, Mr. Jones. I appreciate that. And as a fellow North Carolinian and colleague, I commend you for this bill.

Thank you.

Mr. JONES. Thank you, Mr. Chairman.

Mr. HEINEMAN. Mrs. Lowey from New York, from Westchester County, NY.

STATEMENT OF HON. NITA M. LOWEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mrs. LOWEY. Correct.

Mr. MCCOLLUM. Scarsdale.

Mrs. LOWEY. And the Bronx and Queens County.

Mr. HEINEMAN. You have got a lot of people there.

Mrs. LOWEY. Thank you, Mr. Chairman, and thank you members of the committee.

I want to thank you for allowing me to testify today on behalf of H.R. 2607, the Veterans Memorials Protection Act, which I introduced. On October 18, 1995, a plaque containing the names of 53 residents of Yonkers, NY, who were killed in the Vietnam War was stolen from its place of honor.

The people listed on this memorial made the ultimate sacrifice for America and as Americans we have a responsibility to remember their lives and remember their sacrifices so their deeds can be passed on to future generations. Although the plaque was replaced several weeks later through the generosity of several local organizations, the community reacted with disgust and outrage that someone would show such a lack of respect for our Nation's veterans.

Last year, there were hundreds of acts of vandalism committed against veterans' memorials in this country. Over 50 were committed against memorials run by the National Park Service alone. The defacing of the Park Service monuments are Federal offenses with very severe penalties.

However, there are thousands of memorials in communities all over the Nation, like the one in Yonkers, that do not receive the same protection. Our Nation's veterans deserve better.

Every offense committed against a memorial commemorating the services of anyone in the Armed Forces of the United States of America is an affront to our national heritage and that is why I introduced the Veterans Memorials Protection Act. My bill would make it a Federal crime to commit acts of vandalism against memorials to our veterans.

Under H.R. 2607, if the damage to the memorial is over $100, the perpetrator could be fined and face a prison term. This will serve as a significant deterrent, I believe, to anyone contemplating such a crime.

The bill renews our commitment to preserving the sacred memory of those who died so that we may live in peace. Elevating this crime to a Federal offense will provide additional resources to local law enforcement officials to combat these crimes.

In fact, the bill would bring the resources of the FBI to bear on those who vandalize memorials to our veterans. These vandals must be subject to appropriate sentences. This legislation is also intended to send a very clear message. The bill makes clear that plaques like the one in Yonkers, NY, are just as important to our local communities as the Lincoln, Jefferson, and Vietnam Memorials are to our Nation.

It is a Federal crime to deface any of those national treasures. So it is also appropriate that it be a Federal crime to deface these local treasures. As of this morning, H.R. 2607 has 23 cosponsors, including the distinguished chairman of this subcommittee.

It is an important bill that fills a void in the protection of memorials to our veterans, and I thank Chairman McCollum and Mr. Schumer, the ranking minority member, for calling this hearing and giving me the opportunity to testify.

I thank all the members of the committee, and I hope that we can swiftly move this bill to passage.

Thank you, Mr. Chairman.

[The prepared statement of Mrs. Lowey follows:]

PREPARED STATEMENT OF HON. NITA M. LOWEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, Mr. Ranking Member, members of the Subcommittee, I want to thank you for allowing me to testify today on behalf of H.R. 2607, the "Veterans' Memorials Protection Act," which I introduced.

On October 18, 1995, a plaque, containing the names of 53 residents of Yonkers, New York, who were killed in the Vietnam war was stolen from its place of honor. The people listed on this memorial made the ultimate sacrifice for America, and as Americans we have a responsibility to remember their lives and remember their sacrifices, so that their deeds can be passed on to future generations. Although the plaque was replaced several weeks later through the generosity of several local organizations, the community reacted with disgust and outrage that someone would show such a lack of respect for our nation's veterans.

Last year, there were hundreds of acts of vandalism committed against veterans memorials in this country. Over 50 were committed against memorials run by the National Park Service alone. The defacing of the Park Service monuments are federal offenses with very severe penalties. However, there are thousands of memorials in communities all over this nation, like the one in Yonkers, that do not receive the same protection. Our nation's veterans deserve better. Every offense committed against a memorial commemorating the service of anyone in the Armed Forces of the United States of America is an affront to our national heritage.

That is why I introduced the "Veterans Memorials Protection Act." My bill would make it a federal crime to commit acts of vandalism against memorials to our veterans. Under H.R. 2607, if the damage to the memorial is over $100, the perpetrator could be fined and face a prison term. This will serve as a significant deterrent to anyone contemplating such a crime.

This bill renews our commitment to preserving the sacred memory of those who died so that we may live in peace. Elevating this crime to a federal offense will provide additional resources to local law enforcement officials to combat these crimes. In fact, this bill would bring the resources of the FBI to bear on those who vandalize memorials to our veterans.

These vandals must be subject to appropriate sentences. This legislation is also intended to send a message. This bill makes clear that plaques like the one in Yonkers are just as important to our local communities as the Lincoln, Jefferson and Vietnam memorials are to our nation. It is a federal crime to deface any of those national treasures, so it is only appropriate that it be a federal crime to deface these local treasures.

As of this morning, H.R. 2607 has 23 cosponsors, including the distinguished Chairman of this subcommittee. It is an important bill fills a void in the protection of memorials to our veterans. I thank Chairman McCollum and Mr. Schumer, the Ranking Member, for calling this hearing and giving me the opportunity to testify, and I hope that we can swiftly move this bill to passage.

Mr. HEINEMAN. Thank you, Mrs. Lowey.

Is there a perceived problem with State statutes relative to this type of vandalism?

Mrs. LOWEY. Yes.

It is not consistent, and in our judgment, these veterans have made the great sacrifices for our country. It seems to me that they should fall under the rubric of the Federal statutes rather than be subject to the State statutes.

Mr. HEINEMAN. Are you aware whether there are any States in this country that do not have vandalism statutes that would apply to this, at the local level?

Mrs. LOWEY. There are some vandalism statutes, but we feel that defacement of a monument to veterans on the local level should be taken every bit as seriously as defacement to a national monument. This bill would make it a Federal offense to deface a local monument that is a monument to our Nation's veterans who fought in the U.S. Armed Forces.

Mr. HEINEMAN. Well, as a veteran myself and having put 3 years in the Marine Corps a long time ago, I certainly thank you for your efforts.

Mr. Barr, do you have a comment?

Mr. BARR. No.

As a member of the Veterans' Committee, I am very aware of this problem and I am very supportive of this important legislation and appreciate the Congresswoman bringing it forward.

Mrs. LOWEY. Thank you, Mr. Barr.

Mr. HEINEMAN. Ms. Lofgren.

Ms. LOFGREN. I would just like to thank the Congresswoman as well for attending to this and representing her constituents so amply in matter.

Mrs. LOWEY. Thank you very much.

Mr. HEINEMAN. Mr. Chabot from Ohio.

Mr. CHABOT. I also would like to thank the Congresswoman for our excellent work in this area.

Mrs. LOWEY. Thank you so much.

Thank you so much, Mr. Chairman, and thank you, Mr. Chairman, for cosponsoring the bill. I appreciate your calling this hearing.

Mr. MCCOLLUM [presiding]. You are welcome.

Mrs. LOWEY. Thank you very much.

Mr. MCCOLLUM. It is a good bill and we are very supportive of it. At least I am, and I don't know how many people up here but I suspect you earned some good points here today.

Mrs. LOWEY. Thank you very much.

Mr. MCCOLLUM. Mr. Heineman has not been recognized yet to discuss his bill which is before the committee. He has been gracious enough to Chair for a little while while I slipped out a little while and he has been patient listening to several of the colleagues that he and I shared, all of us do, who came before us this morning.

I think before we bring the Justice Department witness up we should hear from Mr. Heineman and let him catch his breath but wear his other hat as a sponsor of a bill today.

Mr. Heineman, you are recognized.

Mr. HEINEMAN. Thank you, Mr. Chairman.

Let me say that I am appreciative that you and the subcommittee scheduled this hearing today and included H.R. 2650. That is the mandatory Federal Prison Drug Treatment Act.

I introduced H.R. 2650 to restore equity in the way the Federal Bureau of Prisons administers its very successful drug treatment program. Instead of rewarding prison drug addicts at the expense of other nonaddicted inmates, the mandatory Federal Prison Drug Treatment Act provides a proper incentive to recovering addicts to get treatment without providing them with an advantage over other inmates who have not been addicted to narcotics.

On June 8, 1995, this subcommittee held a hearing concerning the Federal Bureau of Prisons. At that hearing, Kathleen Hawk, the Director of the Federal Bureau of Prisons, testified that currently the Bureau of Prisons can allow a drug abuser out of prison a year earlier than their clean counterpart simply by completing a drug treatment program.

This inequity is not based on past criminal history. Rather, these unequal sentencings are a result of one inmate's drug addiction.

Unfortunately, as now constituted, the Bureau of Prisons can reward a drug addict by taking a year off her sentence or his sentence after completion of a drug treatment program. This is poor policy, as well as simply unfair.

The Sentencing Reform Act of 1984 abolished parole in Federal prison. Thus, inmates served the entirety of their sentences, reduced only by credit for satisfactory behavior, good time.

H.R. 2650 requires that drug addicts complete the drug treatment program before they can receive any good time credits which have accrued. The mandatory Federal Prison Drug Treatment Act preserves drug treatment programs in Federal prisons while providing a better incentive for addicts to get clean.

Thank you, again, for the opportunity to discuss this simple yet important legislation. I look forward to hearing from the Department of Justice.

Thank you, Mr. Chairman.

Mr. MCCOLLUM. Thank you, Mr. Heineman.

I wanted to ask one or two quick questions, if I could. How would the bill affect the way good time accrues in the Federal prison? Can you tell us that?

Mr. HEINEMAN. This bill—this bill shouldn't affect that.

Mr. MCCOLLUM. OK.

Mr. HEINEMAN. It should be left up to the Bureau of Prisons.

Mr. MCCOLLUM. Would it in any way affect the availability of drug treatment in prisons?

Mr. HEINEMAN. No, it should not. This shouldn't affect that at all.

Mr. MCCOLLUM. OK.

Well, I just was concerned about it because there has been some comment we heard, I guess indirectly from the Bureau of Prisons, and we will ask when the witness comes up here in a moment, but I don't believe, for whatever reason, the Justice Department has in their written testimony not commented on your bill as opposed to all the others we submitted to them for comment. So that is why I asked those questions. But thank you.

Does anybody else have a question of Mr. Heineman?

I know he is sitting up here but he certainly is a witness as well today.

So does anyone else have a question of him on his bill?

Ms. LOFGREN. I——

Mr. MCCOLLUM. Ms. Lofgren.

Ms. LOFGREN. I read the bill and I guess I am still trying to understand how this would work and how it would change from existing law.

And perhaps I can ask Mr. Heineman to indulge me by explaining it once again.

Mr. HEINEMAN. Sure.

Ms. LOFGREN. In very practical terms how this would work.

Mr. HEINEMAN. Sure.

Right at this present time, and we testified to this at a previous Crime Committee hearing, if myself and Mr. Barr were to go out and commit a crime together, be arrested together, be convicted together and be sentenced together to the same length of time and I were a drug addict, and we both were sentenced, and I took a drug treatment program in the Federal Bureau of Prisons, I would be eligible to get early release because I was an addict and completed a program; whereas my colleague, Mr. Barr, and I apologize for using you in this analogy, would have to complete his sentence. Mr. Barr would have to complete his complete sentence, less good time. This, in effect, would reward.

My bill would put a stop to rewarding drug addicts because they were drug addicts, and this would give them the same ability for good time, but not to take advantage of the good time until they complete that drug treatment program.

Ms. LOFGREN. I see.

Thank you very much.

Mr. MCCOLLUM. Thank you.

I think that is a good explanation, Mr. Heineman.

I believe the bill is a good bill. We have had really some equity problems in this area without any question, but we will get a chance to talk to the Justice Department in just a minute.

As a matter of fact, I am going to introduce our next witness, who is from there. We have just had a bell to go vote but we have got 15 minutes and probably at least a good 10 minutes, so I would like to get started, if I could, with our witness.

Kevin Di Gregory is a Deputy Assistant Attorney General in the Criminal Division of the U.S. Department of Justice. He has spent his entire legal career as a trial prosecutor beginning in 1979, in the district attorney's office in his native Pittsburgh, PA.

Just prior to coming to the Justice Department he served as Janet Reno's Chief Assistant for Major Crimes in Miami, FL, so I can welcome as a Floridian, I can claim you anyway.

His current responsibilities include serving as a Department representative on the Executive Working Group for Federal, State, and Local Prosecutors. The group was established in 1980, to promote cooperation among all law enforcement agencies.

Mr. Di Gregory supervises two of the Criminal Division's litigating sections, General Litigation and Legal Advice Section and the Child Exploitation and Obscenity Section. In addition, he has worked closely with the Terrorism and Violent Crime Section in the development and implementation of the Attorney General's National Anti-Violence Initiative.

Mr. Di Gregory, we welcome you here today. Your entire statement, obviously, will be put in the record without objection. And you may proceed to summarize it or to read whatever portion of it you wish to on these bills today. We just greatly appreciate the Justice Department's comments on this series of bills.

STATEMENT OF KEVIN V. DI GREGORY, DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE

Mr. DI GREGORY. Thank you.

Good morning, Mr. Chairman. Thank you for allowing me to be here.

Mr. Heineman, Mr. Barr, good morning to you.

I am pleased to be here to respond to your request for the Department of Justice's views on a number of bills presently before the subcommittee.

What I would like to do is provide a short summary of our views and then answer any questions you may have.

The Department has also provided a letter containing a more detailed discussion of each bill that I ask, Mr. Chairman, be inserted into the record.

Mr. MCCOLLUM. Without objection.

[The information follows:]

U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

March 6, 1996

The Honorable Bill McCollum
Chairman
Subcommittee on Crime
Committee on the Judiciary
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am pleased to respond to your request for the Department of Justice's views on a number of bills the Subcommittee will soon consider. Our views are provided below.

H.R. 1143 -- Retaliation against Witnesses

This bill would amend 18 U.S.C. § 1513, relating to retaliating against a witness, by providing that if the retaliation occurred because of attendance at or testimony in a criminal case, the maximum term of imprisonment for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case. The Department supports this penalty enhancement, which is clearly and rationally designed to deter the commission of this type of offense. As a technical matter, it would appear that this amendment ought to be designated subsection (d) rather than subsection (c).

H.R. 1144 -- Witness Tampering

This bill would amend 18 U.S.C. § 1512, relating to witness tampering, by providing that if the offense under this section occurs in connection with a trial of a criminal case, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case. The Department supports this penalty enhancement, which again seems rationally designed to deter such tampering offenses.

H.R. 1145 -- Jury Tampering

This bill would amend 18 U.S.C. § 1503, relating to jury tampering, by providing that if the offense under this section occurs in connection with a trial of a criminal case, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case. The Department supports this penalty enhancement, for the reason given in connection with the discussion of H.R. 1144.

H.R. 2092 -- The Private Security Officer Quality Assurance Act

We applaud the goal of this bill, enhancing the oversight and regulation of private security officers. However, we have several concerns about the background check provisions and the intended scope of the term "private security officer."

Section 3 permits an association of employers of private security guards to conduct criminal history record checks directly with the Federal Bureau of Investigation. We believe this proposal is unnecessary. FBI criminal history record checks are currently conducted for prospective security guards, private patrolmen, and watchmen pursuant to Pub. L. 92-544 in the 34 states which have enacted appropriate enabling legislation.

Any procedure that would bypass the initial fingerprint check through state criminal record systems is an inefficient use the FBI and other law enforcement resources. The state authorities handing the applicant fingerprint card should forward to the FBI only those cards for which no disqualifying record or substantive information is identified at the state or local level. The identification of such information obviates the need for a national check, thus resulting in the savings of time and expense attributable to redundant FBI processing.

It should be noted that an individual's criminal history record at the state level often contains arrests and dispositions that are never reported to the FBI. Further, some state laws prohibit the dissemination of certain nondisqualifying criminal history data -- such as non-conviction data or arrest entries for which no disposition has been reported -- to state and local agencies making licensing and employment decisions.

Section 4 of the bill expresses a sense of the Congress that the states should enact statutes requiring employer licenses for security services, registration permits with background requirements, and detailed training prerequisites. Also advocated are provisions for recognition of out-of-state licenses, certain employee rights, and the state creation of advisory boards. We have several observations and suggestions related to this section and Section 5 (definitions).

Throughout the proposal "private security officers" are dealt with as a relatively identifiable and fungible category of employees. However, variations in state laws, assigned duties, and employment status create a wide range of such employees, many of whom resemble office receptionists or mid-level office managers while others are virtual police officers with limited jurisdiction.

"Private security officer" has a much narrower meaning in the law enforcement community than is established by the proposed legislative definition. That proposed definition of a "private security officer" would seemingly include many office receptionists, tavern "bouncers," parking lot attendants, transit and airline gate personnel, ticket-takers at virtually any facility, non-police park rangers, pool life guards, theater ushers, and fire alarm technicians. The definition unintentionally may even reach certain members of the news media -- who may perform the observation or reporting of unlawful activity, full or part time, for consideration as an independent contractor, or as an employee with a primary duty to perform those tasks. Even some Federal Government employees are seemingly within the scope of that definition, if they perform any of the security and safety functions identified and are not sworn police officers or active duty military personnel. We do not believe that the Federal Government should urge the states to regulate the training, qualifications, and other employment aspects of various categories of federal employees.

While the findings initially suggest that the primary problem which the legislation seeks to address involves private shopping mall and other facility security officers and the inability of the public to distinguish such private officers from sworn public police officers, this proposal exceeds that scenario. Even in that narrow area, the states seem qualified to identify any problem and address it, as many jurisdictions already have by mandating large shoulder patches with distinctive markings or other uniform labeling which clarifies an employee's private sector status.

We have concerns about the perceived need for homogeneous training. Job responsibilities, levels of oversight, exposure to the public, and state-granted powers vary to such a degree that, in our view, no specific minimal training requirements could meet the needs of some security officer assignments without substantially exceeding the level required for others.

The level of specificity of proposed requirements may prove to be both insufficiently flexible and nevertheless inaccurately precise. For example, advocating that a 70% marksmanship score be adopted as a requirement by all states seems rather precise, yet, since no standard for the form of test which should yield that score is provided, the number is insignificant if testing

and scoring procedures vary widely. Similarly, prohibiting the "unreasonable limitation" of the right of an involuntarily terminated employee to seek subsequent security officer employment may prove to be so vague that it does not afford additional protection if state labor laws are inadequate, yet it inadvertently could encourage the hiring of unqualified personnel already terminated for cause from a similar position.

H.R. 2137 -- Megan's Law

H.R. 2137 would require the release of relevant information to protect the public from child molesters and other sexually violent offenders. The Department of Justice supports the enactment of this legislation.

The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act provides a financial incentive for states to establish effective registration systems for released child molesters and other sexually violent offenders. States that fail to establish conforming registration systems will be subject to a 10% reduction of formula Byrne Grant funding, and resulting surplus funds will be reallocated to states that are in compliance. The current provisions of the Jacob Wetterling Act permit, but do not require, states to release relevant registration information that is necessary to protect the public concerning persons required to register.

H.R. 2137 would make the disclosure of registration information necessary to protect the public mandatory rather than permissive under the Act's standards. The Department of Justice supports this reform. Where a state has information through its registration system concerning a child molester or other sexually violent criminal who poses a continuing danger to others, the state should not withhold this information from persons who need it for the security of themselves and their families. A number of states already provide for community notification or other forms of disclosure in appropriate circumstances, and the change in the Jacob Wetterling provisions proposed in H.R. 2137 would encourage additional states to adopt such measures.

In the Department's proposed guidelines for the Jacob Wetterling Act (60 Fed. Reg. 18617, April 12, 1995), we have explained that the Act accords states discretion concerning the standards and procedures to be applied in determining whether a registering offender constitutes a danger to the public, and concerning the nature and extent of disclosure necessary to protect the public from such an offender. H.R. 2137 makes the "public safety" disclosure provision of the Act mandatory -- changing "may" to "shall" -- but does not otherwise change the language of this provision.

Hence, states will need to provide for such disclosure following the enactment of H.R. 2137 to comply with the Act, but they will retain discretion concerning specific standards and procedures and the nature and extent of disclosure in implementing this requirement. For example, New Jersey's multi-tiered system for classifying offenders based on risk and making varying degrees of disclosure on the basis of that classification would be consistent with the "public safety" disclosure provision of the Jacob Wetterling Act as amended by H.R. 2137.

In addition to endorsing the particular change proposed in H.R. 2137, we recommend an additional amendment to the provision of the Jacob Wetterling Act relating to the release of information. Section 170101(d) of the Jacob Wetterling Act provides that information collected under state registration programs "shall be treated as private data," subject to three exceptions -- disclosure to law enforcement agencies for law enforcement purposes, disclosure to government agencies conducting confidential background checks, and disclosure for public safety reasons (as discussed above).

The requirement that registration information generally be treated as private data is not necessary or helpful in realizing the objectives of the Jacob Wetterling Act, and it imposes a limitation on the states that did not exist prior to the enactment of the Jacob Wetterling Act. We see no reason why states should not generally be free to make their own decisions concerning the extent to which registration data should or should not be treated as private data, as they have been in the past.

We accordingly recommend deletion of the provision that information collected under state registration systems is generally to be treated as private data. This change, together with the change proposed in H.R. 2137, could be implemented by revising subsection (d) of § 170101 of the Violent Crime Control and Law Enforcement Act of 1994 to read as follows:

"(d) RELEASE OF INFORMATION. -- (1) The information collected under a State registration program may be disclosed for any purpose permitted under the laws of the State.

> "(2) The designated State law enforcement agency and any local law enforcement agency authorized by the State agency shall release relevant information collected under the registration program that is necessary to protect the public concerning a specific person required to register under this section, provided, that this paragraph shall not be construed to require the disclosure of the identity of a victim of an offense that requires registration under this section."

Beyond the notification issue raised by H.R. 2137, discussion with the states indicates that some of the more detailed prescription in the registration provisions of the Jacob Wetterling Act may impede some state compliance, though that level of detail may be unnecessary to realize the essential objectives of the Act. We would be pleased to work with interested members of Congress to strengthen the Act by addressing legitimate concerns regarding impediments to effective state implementation.

Finally, we believe that in conjunction with our efforts to encourage and strengthen state-based registration systems under the Jacob Wetterling Act, we should consider developing additional forms of federal assistance for the states that would complement and magnify the benefits of the Act.

On at least one front, such assistance already is being provided. The FBI has developed a powerful tool known as CODIS to assist states in investigating and solving crimes involving biological evidence, including particularly serial and stranger sexual assaults. CODIS (short for "Combined DNA Index System") permits DNA examiners in crime laboratories to exchange forensic DNA data on an intrastate level, and will enable states to exchange DNA records among themselves through the national CODIS system. In the Final Guidelines implementing the Jacob Wetterling Act, which we plan to publish in the near future, we encourage states to collect DNA samples from registering sex offenders to be typed and stored in state DNA databases, and to participate in CODIS.

In addition, we are exploring a modification to the National Crime Information Center, which is operated by the FBI, that would provide further assistance to law enforcement in this area. Under existing law and administrative arrangements, the information on sex offenders that is provided by the FBI is generally limited to "rap sheet" information, and does not include residence address information for the offenders. The Jacob Wetterling Act contemplates that states will have central registration authorities that administer their sex offender registration systems, and will provide mechanisms for ensuring that address information is kept up to date when the offender moves elsewhere in the state or to another state.

However, implementation of these tracking systems will depend on compliance by the various states with these aspects of the Jacob Wetterling system. As states comply with Jacob Wetterling, the resulting databases would be maintained at the state level.

Currently, the FBI is working with its Criminal Justice Information Services (CJIS) Advisory Policy Board, which advises the Director on criminal justice and law enforcement agency

matters, to establish a Sex Offender Registration Index in the National Crime Information Center (NCIC). The FBI is working on additional technical and legal research related to this expansion of the NCIC 2000 "Individuals on Supervised Release" database, and expansion of NCIC 2000 to include a category of records for persons registered under the requirements of the Jacob Wetterling Act. We anticipate implementation of the Sex Offender Registration Index in NCIC 2000 sometime after 1999.

H.R. 2453 -- The Fugitive Detention Act

This bill would amend 18 U.S.C. § 3161, relating to speedy trial time limits, by providing that, with regard to a defendant who was a fugitive from justice, the existing time limitations for commencement of trial shall be further extended by 60 days for each year that the court determines the defendant was a fugitive.

We appreciate the purpose of the bill to ensure that fugitives are not rewarded for their flight by making prosecution difficult. However, the proposal may have the potential for providing unnecessary additional time. Under certain circumstances, 18 U.S.C. §3161(k) could provide an adequate extension of the time limitations when a defendant fails to appear for trial, by in effect restarting the clock so that the government gets 70 days in which to bring the individual to trial. Under other circumstances in which a defendant's flight has given rise to unusually difficult problems for the government in reassembling its evidence, some further extension clearly is warranted. We would be pleased to work with the Subcommittee and the bill's sponsor on this important issue.

H.R. 2607 -- Veterans' Memorials Protection Act

H.R. 2607, which appears to be modeled on 18 U.S.C. 1361, would add a new section 1368 of title 18 punishing whoever "on public property" willfully injures or commits any depredation against any structure, statute, plaque, or monument commemorating the service of any person in the United States armed forces. We, of course, agree with the underlying motivation behind the bill: that the memories of those who have sacrificed and served this Nation should forever be treated with respect.

The Subcommittee should consider the following. To the extent that veterans' memorials are United States property or are on land over which there is federal criminal jurisdiction, willful damage or depredation of such memorials is already subject to federal prosecution under 18 U.S.C. 1361 or the Assimilative Crimes Act, 18 U.S.C. 13. By "on public property", therefore, we surmise that the bill is intended to reach those memorials that are on property belonging to a state or subdivision thereof. Assuming that to be the case, the

Subcommittee should assess whether the nature of the property in question is a sufficient basis for the assertion of federal jurisdiction, absent some other federal nexus such as the offense having an adverse effect on interstate commerce. Moreover, we are unaware of any problem with respect to current law enforcement efforts involving this type of offense. Federal agents are likely to be far less accessible to the scene than local authorities and less knowledgeable about the activities of the possible perpetrators in a local community.

H.R. 2641 -- The United States Marshals Service Improvements Act

H.R. 2641 would amend 28 U.S.C. § 561(c) to authorize the Director of the Marshals Service to appoint U.S. Marshals from the competitive civil service. Marshals thus would be career law enforcement officers who had risen through the ranks of the Marshals Service. The provision would take effect in the year 2000. Until that time, Marshals would continue to be appointed by the President with the advice and consent of the Senate as they have been since the earliest days of our nation.

We support the thrust of the bill, which is consistent with a recommendation from the National Performance Review. We would, however, note a constitutional concern with the specific language of H.R. 2641. The bill should provide for appointment of Marshals by the Attorney General rather than the Director of the Marshals Service. Courts have held that Marshals are "officers of the United States" in the Constitutional sense. Under the Appointments Clause of the Constitution, such officers must be appointed by the President, courts of law, or heads of Departments.

Appointment of Marshals by the Attorney General would result in naming as Marshals persons who have demonstrated outstanding law enforcement and administrative expertise through a career in the Service. Although politically appointed Marshals have long served the Nation with dedication and integrity, today the multi-faceted law enforcement missions of the Marshals Service -- involving such matters as judicial security, fugitive apprehension, prisoner transportation, witness protection, and disposal of seized assets -- require that its field offices, like those of other law enforcement agencies, be headed by career law enforcement officers.

H.R. 2803 -- Anti-Car Theft Improvements Act

This bill would amend 49 U.S.C. §§ 30501 - 30505 so as to transfer primary responsibility for the operation of the National Automobile Title Information System (NATIS) from the Secretary of Transportation to the Attorney General. The bill also would

expand the scope of the system to include "passenger motor vehicles" as defined in 49 U.S.C. § 32101(10), as well as "automobiles" as defined in 49 U.S.C. § 32901(a). Accordingly, the bill would change the name of the system to the National Motor Vehicle Title Information System.

In our view, an effective motor vehicle titling information system would deter auto theft by reducing the opportunity for car thieves to buy the "junk," "salvage," "rebuilt" or other branded titles to wrecked automobiles, switch the VIN plates from the wrecks to similar make/model stolen automobiles, and then obtain apparently clean or "washed" titles to the stolen vehicles in other jurisdictions. The system also would deter consumer fraud by preventing unscrupulous auto-rebuilders from obtaining clean or "washed" titles to rebuilt wrecks.

The Department of Justice does not object to the concept of a transfer of primary responsibility for operating NATIS from the Secretary of Transportation to the Attorney General. However, we understand that the Department of Transportation, in cooperation with the American Association of Motor Vehicle Administrators, is conducting a pilot study of the system. In view of the ongoing pilot study, a transfer of primary responsibility for operating the system at this time may be counterproductive and could cause delays in implementation. We further understand that implementation of the system has been impeded by lack of funding. We assume that a transfer of primary responsibility for the operation of NATIS to the Attorney General will include funding adequate to establish an effective system.

Sections 5 and 6 of the bill provide for immunity from civil liability for any person performing any activity in good faith and with the reasonable belief that such activity was in accordance with 49 U.S.C. §§ 30502-30504 and 33109-33111. We support these immunity provisions.

H.R. 2804 -- Air Bag Marking

This bill would amend 49 U.S.C. § 33101(6) by adding air bags to the list of major parts of passenger motor vehicles subject to the Department of Transportation's theft prevention program. This program requires manufacturers to mark designated major parts of certain passenger motor vehicles with identification numbers. The Department supports this bill, which will enhance efforts to deter motor vehicle theft and "chop shop" operations.

H.R. 2974 -- Crimes Against Children and Elderly Persons Punishment and Prevention Act

H.R. 2974 would direct the Sentencing Commission to increase by five levels (or generally more than fifty percent) the sentence for certain crimes of violence committed against victims 65 years of age or older or 11 years of age or younger. The impetus for the legislation evidently stems from the fact that the Sentencing Commission took virtually no action in response to the enactment by Congress of section 240002 of the Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA). That provision had directed the Commission to "ensure that the applicable guideline range for a defendant convicted of a crime of violence against an elderly victim is sufficiently stringent to deter such a crime, to protect the public from additional crimes of such a defendant, and to adequately reflect the heinous nature of such an offense." The Commission determined to make no amendment of the guidelines pursuant to this provision,[1] evidently concluding that the guidelines already provided an adequate adjustment for crimes against elderly victims, through section 3A1.1 of the guidelines, dating from 1990, which directs a court to increase the sentence by two levels if "the defendant knew or should have known that a victim of the offense was unusually vulnerable due to age, physical or mental condition, or that a victim was otherwise particularly susceptible to the criminal conduct."

Victims of crime who are particularly vulnerable due to advanced age or youth deserve special protection under the law. In light of the current guidelines covering all vulnerable victims, we have several suggestions to improve this proposal:

First, we share the Commission's belief, reflected in the scope of section 3A1.1, that all vulnerable victims should receive comparable protection. A person who assaults a disabled thirty year old victim should not be treated more leniently than one who assaults a physically robust elderly victim.

Second, the list of violent crimes as defined in H.R. 2974 is incomplete. It covers only ten enumerated violent offenses for which there is federal jurisdiction based largely on their commission in the special maritime and territorial jurisdiction of the United States, and omits far more frequently prosecuted violent offenses such as bank and postal robbery (18 U.S.C. 2113,

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[1]The Commission amended its commentary to suggest that an upward departure from the guidelines might be warranted if the offense were the second such crime by the defendant against a vulnerable victim, but departures are wholly discretionary.

2114).[1] We see no reason why the generic definition of "crime of violence" in 18 U.S.C. §16 should not be applicable here.

Third, we believe that requiring some knowledge of the victim's vulnerable status, as does the current guideline, is preferable to requiring a penalty increase triggered solely by the fact of the victim's age or vulnerability.

Finally, we believe that mandating that the Commission increase its guidelines by a specific level may be unnecessary. We would prefer that the bill mandate the Commission provide an appropriate further increase in section 3A1.1, but confer more discretion on the Commission as to the precise degree of penalty enhancement to be imposed.

We look forward to the opportunity to work with the Subcommittee to provide greater protection to all vulnerable victims, including those specifically enumerated in H.R. 2974.

H.R. 2980 -- Interstate Stalking Punishment and Prevention Act

The proposed Interstate Stalking Punishment and Prevention Act of 1996 would enact an interstate stalking offense (proposed 18 U.S.C. 2261A). The proposed offense is modeled on the existing interstate domestic violence offense, 18 U.S.C. 2261. It would specifically cover traveling across a state line or entering or leaving Indian country with the intent to injure or harass another person, where the actor in the course of, or as a result of, such travel places that person in reasonable fear of death or serious bodily injury to the person or an immediate family member. The authorized penalties would be the same as those provided in 18 U.S.C. 2261.

In addition to proposing the new interstate stalking offense, the bill corrects a drafting problem in 18 U.S.C. 2262 (relating to interstate violations of protection orders). As currently drafted, the penalty provisions in 18 U.S.C. 2262 are facially narrower than the scope of the offense it defines, since the penalty provisions refer to harm to the offender's spouse or intimate partner, but the offense defined in subsection (a) could be premised on violation of a protection order issued for the benefit of any person. The bill corrects this problem by substituting references to the "victim" in the penalty provisions for references to "spouse or intimate partner."

The Department of Justice supports the enactment of this legislation. In essence, it fills a gap in existing federal law,

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[2]We recognize that section 240002 of the VCCLEA, which the draft bill would amend, was similarly drafted.

which reaches interstate domestic violence (under 18 U.S.C. 2261) and interstate violations of protection orders (under 18 U.S C. 2262), but does not cover essentially similar types of conduct where the victim has not had an intimate relationship with the offender and has not obtained a protection order. Since the scope of the proposed offense is generally limited to cases involving interstate movement of the offender, we do not believe that it will result in an excessive extension of federal jurisdiction or undermine state responsibility. Rather, like the existing offenses in 18 U.S.C. 2261-62, it will provide a supplementary measure for cases where the interstate nature of the offense may create difficulties for effective state investigation and prosecution.

In terms of drafting, we suggest the following corrections or refinements: (1) It would be advisable to add to 18 U.S.C. 2266 a definition of "harass," a term that appears without definition in 18 U.S.C. 2261 and proposed 18 U.S.C. 2261A. We would be pleased to work with the sponsors to devise an appropriate definition. (2) For consistency with the corresponding language in 18 U.S.C. 2261(a)(1), proposed 18 U.S.C. 2261A should say "with the intent to injure, harass, or intimidate" rather than "with the intent to injure or harass." (3) The term "serious bodily injury" should be defined. This is a term often used in title 18, and its existing definition could be incorporated by reference by adding "(as defined in section 1365(g)(3) of this title)" after "serious bodily injury" in proposed 18 U.S.C. 2261A. (4) The phrase "of this title" should be inserted after "section 115" in proposed 18 U.S.C. 2261A. (5) The item for chapter 110A in the table of chapters for title 18, United States Code, should be amended to reflect the change in the chapter heading proposed in the bill (from "domestic violence" to "domestic violence and stalking").

H.R. 2996 -- The Law Enforcement and Industrial Security Cooperation Act

This bill would create a Commission, composed of 12 members appointed by the majority and minority leadership of the House of Representatives and the Senate, as well as a Commission staff and an Advisory Board appointed by various interests. The proposed structure would be tasked with studying issues of public-private cooperation in law enforcement, recommending revisions in federal, state, and local laws to the Congress to promote such cooperation, and otherwise encouraging such cooperation. The Commission would make a final report to Congress after two years. Financing of the Commission would come from private funds and gifts.

It is important to note that public and private interests are currently participating in numerous efforts to improve public-private cooperation in law enforcement. Federal law enforcement agencies already support and benefit from many

private and public efforts in this area, by conducting research, sharing information at conferences, and coordinating enforcement programs. For example, federal representatives participate in the National Cargo Security Council, a coalition created to improve safety and security in commercial shipping. We are similarly actively engaged in cooperative security planning efforts in the high technology and computer crime area.

We support the goals of this bill and want to work with the Subcommittee and the bill's sponsor regarding some of the specific provisions proposed. The nature of the effort does not suggest any need for the proposed authority to administer oaths or require testimony by subpoena. The goal of cooperation in preventing the victimization of commercial interests is not controversial and does not involve adversarial interests. We are not aware of any need to subpoena individuals or "evidence."

The role proposed for federal agencies is potentially very burdensome. At a minimum, reimbursement for personnel detailed with the consent of their employing agency should be required. Further, personnel already engaged in successful cooperative law enforcement efforts should not be diverted from such assignments in order to staff this new initiative. Similarly, any information demand from the Commission should be evaluated from the perspective of the burden which compliance will place upon the affected agency and upon its ongoing cooperative law enforcement efforts.

The proposals for financial assistance from corporate, private, and other non-governmental interests clearly raise concerns since the effort is likely to lead to legislative proposals and other governmental action. Commission authority to accept, use, and dispose of gifts raises similar concerns regarding the potential creation of a conflict of interest or the appearance of a conflict of interest.

Again, we are pleased to assist the Subcommittee's consideration of these bills. Please do not hesitate to contact me if you need any additional assistance.

Sincerely,

Andrew Fois

Andrew Fois
Assistant Attorney General

cc: The Honorable Charles Schumer
Ranking Minority Member

Mr. DI GREGORY. The first H.R. 1143, H.R. 1144, and H.R. 1145, those bills dealing with retaliation against witnesses, witness tampering and jury tampering, the Department believes that these offenses are serious threats to the integrity of the criminal justice process. The enhancement of penalties as proposed in these bills is designed to deter the commission of these types of crimes and we therefore support these proposals.

H.R. 2092, the Private Security Officer Quality Assurance Act, enhancing the oversight and regulation of private security officers is a laudable and important goal which we support. However, our principal concern regarding this proposal relates to the provisions allowing background checks for private security officers directly through the FBI.

H.R. 2137, Megan's law, H.R. 2137 would require the release of relevant information to protect the public from child molesters and other sexually violent offenders. The Department of Justice supports the enactment of this legislation. Where a State has information through its registration system concerning a child molester or other sexually violent criminal who poses a continuing danger to others, the State should not withhold this information from persons who need it for the security of themselves and their families.

The Fugitive Detention Act, H.R. 2453, we appreciate the purpose of this bill to ensure that fugitives are not rewarded for their flight by making prosecution difficult. There is already, as Mr. Frank alluded to, a statutory mechanism for providing extension of time limitations when a defendant fails to appear for trial by, in effect, restarting the clock so that the Government gets 70 days in which to bring the individual to trial. However, under some circumstances a further extension would clearly be warranted, and as we informed Mr. Frank earlier today, we would be happy to work with the subcommittee and Mr. Frank on this important issue.

The Veterans Memorials Protection Act, H.R. 2607, we agree with the underlying motivation behind the bill, that the memories of those who have served—sacrificed and served this Nation should forever be treated with respect. And we are outraged at the desecration which occur. The bill's coverage is presumably intended to reach those memorials that are on property belonging to a State or subdivision, and in light of this, we simply suggest that the committee consider whether the nature of the property in question is a sufficient basis for the assertion of Federal jurisdiction absent some other nexus and whether State governments and local governments are fulfilling their responsibilities in enforcing their criminal laws with respect to vandalism and the discretion of these properties.

H.R. 2587, the War Crimes Act, this bill would create in title 18 of the United States Code, a new chapter dealing with war crimes. Because this proposal is the subject of interagency discussions, I am unable to provide comments on the bill at this time, but I do believe that we will be able to provide our bills on this—our views on this bill, excuse me, very soon.

H.R. 2641, the U.S. Marshals Service Improvements Act, H.R. 2641 would authorize the Director of the Marshals Service to appoint U.S. marshals from the competitive civil service. Marshals thus would be career law enforcement officers who had risen

through the ranks of the service. We support the thrust of this bill. We would, however, note that constitutional considerations require that the appointment of marshals should be by the Attorney General rather than the Director of the Marshals Service.

The Federal Mandatory Drug Treatment and Prison Act, H.R. 2650, we are currently reviewing the changes provided in this bill and we were unable to finalize our views on this proposal prior to the hearing. We will forward our comments to the subcommittee shortly, and as a matter of fact, we discussed this bill yesterday, and if I may, on a personal note, at least regarding my personal experience as a prosecutor in Florida, Mr. Chairman, Mr. Barr, Mr. Heineman, I was always concerned when the Florida Sentencing Guidelines allowed, for example, the burglar who claimed he had a drug abuse problem to receive a downward departure in his sentence because of that problem, when the burglar who did not was not eligible for that claim. So I personally have a similar concern that you have. But as I said, we are continuing to discuss this and we hope to have our views to you shortly.

H.R. 2803, the Anti-Car Theft Improvements Act, this bill would transfer primary responsibility for the operation of the National Automobile Title Information System from the Secretary of Transportation to the Attorney General. The Department of Justice does not object to the concept of a transfer of primary responsibility for operating NATIS from the Secretary to the Attorney General. We are concerned that a transfer at this time may cause additional delay in the system's implementation.

Airbag Marking, H.R. 2804, we support this bill which adds airbags to the list of major parts of passenger motor vehicles subject to the Department of Transportation's Theft Prevention Program.

H.R. 2974, Crimes Against Children and Elderly Persons Punishment and Prevention Act, H.R. 2974 would direct the Sentencing Commission to increase by five levels or generally more than 50 percent the sentence of the—the sentence for certain crimes of violence committed against victims 65 years of age or older, or 11 years of age or younger.

Victims of crime who are particularly vulnerable due to advanced age or youth deserve special protection under the law. In light of the already existing guidelines covering all vulnerable victims we have certainly suggestions that we suggest would improve this proposal and those are contained in the views letter that has been submitted to you.

H.R. 2980, Interstate Stalking Punishment and Prevention Act, the proposed Interstate Stalking Punishment and Prevention Act of 1996 would enact an interstate stalking offense. The proposed offense is modeled on the existing interstate domestic violence offense, which is at 18 United States Code, section 2261. The Department of Justice supports the enactment of this legislation.

H.R. 2996, the Law Enforcement and Industrial Security Cooperation Act, this bill would create a commission that would be tasked with studying issues of public private cooperation in law enforcement, recommending revisions in Federal, State and local laws to the Congress to promote such cooperation and otherwise encouraging such cooperation. We support the goals of this bill and want

to work with the subcommittee and the bill's sponsor regarding some of the specific provisions proposed.

That concludes my oral statement, and I will be happy to—I will be happy to answer any questions you have or try to answer any questions.

Mr. MCCOLLUM. You really raced through that, and I think we just made it in time for the chairman to be able to go vote with Mr. Barr.

We will be right back and thank you.

The committee is in recess.

[Recess.]

Mr. MCCOLLUM. This hearing of the Subcommittee on Crime is called to order again.

When we recessed for the vote a few minutes ago, Mr. Di Gregory had been testifying.

And I believe you had completed your statement for the Department of Justice at that point on these various bills that we have before us today.

I have a few questions to ask, and I am sure that my colleagues likewise have some questions that they perhaps would like to put to you.

There are some many different bills I don't want to ramble from one to the other too rapidly, but I want to touch base on a couple of things.

With regard to the Anti-Car Theft Improvement Act of 1995, that is H.R. 2803, the Department of Transportation has indicated that a titling information system cannot be established until all States are required to participate in the system or at least have uniform titling definitions.

Do you believe this is the case? And the question is whether or not these changes among the States need to take place before the system can operate? Do you have any information on that at all for us?

Mr. DI GREGORY. The only thing—excuse me.

Mr. MCCOLLUM. Certainly.

Mr. DI GREGORY. I seem to recall that—I don't think that the FBI believes that this is necessary before there needs—before the system can be put in place.

Mr. MCCOLLUM. OK. So you——

Mr. DI GREGORY. But that is my best recollection. But I am not 100 percent sure of that.

Mr. MCCOLLUM. We can present some of these to you in terms of getting responses as we move through the bill. That was a question that I had about that bill in particular.

With regard to, while we are on car theft and car issues, the airbag bill, 2804, since its inception in 1984, I am curious as to whether the Parts Marking System has been shown to reduce auto theft; do you have any data to collaborate or not?

Mr. DI GREGORY. I don't have any data, Mr. Chairman, I am sorry, on whether that is the case.

Mr. MCCOLLUM. And we were also curious as to what studies had been done as to the effectiveness of the marking system which I am equally sure you would not have here today, but again we would like you to produce it.

One of the questions raised with me about this bill has to do with the fact that my understanding is that there are—that this bill would require a VIN number to be put on the actual airbag and the auto industry is saying that there are already markings on these bags and that the problem is that the VIN number would be a separate thing they would have to do because they don't manufacture the airbags.

In other words, it is a more difficult and costly process and they were questioning whether or not it was necessary to put the VIN number on as opposed to either the existing markings or markings which could be put on the airbags by the manufacturers at an earlier stage in the process. And I am sure Mr. Schumer and I both don't want to go to unnecessary expense if there is either another kind of marking that could be done to the bags before they get to the car manufacturer or some alternative that would not require that expense. So I just throw that out. You don't know the answer today, but it would be helpful for us to know that.

Mr. DI GREGORY. No, I don't.

Mr. MCCOLLUM. I have other questions I can ask, but I am going to let my colleagues have their chance at this point. Mr. Heineman.

Mr. Barr.

Mr. Heineman.

Mr. HEINEMAN. Thank you, Mr. Chairman.

In reference to that last subject, the marking of the airbags, and I am not a—I am not an attorney and it is just a very simple question which would call for a very simple answer.

Do we do that?

Do we tell the private sector that we have to—this wouldn't be an unfunded mandate in any stretch of the imagination, would it?

Mr. MCCOLLUM. Well, in a way it is because we do require the marking of parts already and the VIN number is part of this, too.

But maybe, Mr. Di Gregory, you could explain, as you understand it, the law as it exists today.

Mr. DI GREGORY. I would think that you could require these companies to do it because of the control that you have over interstate commerce and that these parts would move in interstate commerce, but I would have to get back with you as to an absolute answer on that.

Mr. HEINEMAN. Well, it is a very important issue and it is a very valuable resource for law enforcement as it relates to chop shops, as—even aside from the fact that people can steal parts out of autos themselves. But these professional chop shops, I know back in 1970, I was involved in that stuff not as a bandit but as a police officer, and it was so important to be able to identify that particular—even if you couldn't identify where it came from, but that particular—but we didn't have airbags then—part did not come with that car. So I would be interested to know about whether we do have the authority to do that.

Thank you.

Mr. DI GREGORY. Yes, sir.

Mr. MCCOLLUM. Mr. Barr.

Mr. BARR. Thank you, Mr. Chairman.

If I could, Mr. Di Gregory, ask you to take a look at or at least give you a document here that was attached to my opening state-

ment, which just graphically and I think fairly clearly lays out the reason why H.R. 2092 is being proposed. And frankly, in light of the fact that it is designed simply to provide a mechanism for streamlining the procedure and shortening the procedure in many instances, whereby an employer can know whether or not the prospective security employee has a record, in light of that being its goal, in light of the fact that it is not mandatory, in light of the fact that it does not close off in any way, shape or form going through the State mechanism and checking the State records, and so forth, in light of the fact that it has a fee mechanism in it and in light of the fact that the Department agrees with the overall goal, I very, frankly, am somewhat mystified by the lengthy objections, and maybe they are not objections.

Maybe I am reading too much into it. They may be, as your letter States or as the letter from the Department States, they are merely concerns of the Department. But I just would like to state for the record and ask the Department to take a very careful look at this legislation and if there are some—any specific areas where we can make clear that the legislation is not designed, and certainly we want to avoid any misimpression of the legislation, specific language that we could propose to it and amend it to make clear that it is not designed to mandate anything. It is not cutting anything out of the checks and balances in our system.

And very simply I know that sometimes it may be a matter of which comes first, the chicken or the egg. Do you go to the State first or the Federal?

Very frankly, I and my colleagues that are supporting this bill on both sides of the aisle, as well as the professionals in the private security industry, frankly, this bill is really a kudos to the FBI. What we want to do is go to the very best people that have the broadest ability to make a first cut at this, that can avoid a lot of the problems in the first place.

And I know I sort of see from the Department's letter here, they would prefer for that first cut to be done at the State level. And this legislation doesn't cut that out at all. It just provides a mechanism for those States that want to sort of the top guys first and cut out problems where we have somebody applying who has a record in some other State, or whatnot, to streamline the process and really meet what the Department's goal is, I think, also.

So if you have any reaction to that, I certainly would appreciate it, but I would simply appreciate the Department taking a close look at this and if there are some specific concerns that we can work on to make those goals even clearer to address any concerns, any lingering concerns, that the Department might have, we certainly would be more than willing and welcome the opportunity to do so.

Mr. DI GREGORY. I can only tell you that in discussing this with persons from the FBI, they expressed a concern that they might perhaps be overburdened, because of the lack of winnowing that will occur, if people decide that they want to go directly to the FBI as opposed to going through the State identification systems.

They suggested to me that sometimes the State and local background checks will uncover disqualifying information which then

will limit the number of total inquiries that are sent to the Bureau after those State and local checks are done.

Mr. BARR. And hopefully, the clearinghouse mechanism that is provided here would do that, and, again, it is not my intent and nor the intent of the legislation, and I know the security professionals, through their organization, they are not interested in overburdening the FBI either because that would—that would destroy the whole purpose for doing this, to streamlining and making the process move more swiftly, but the whole point of this, setting up the clearinghouse and having that be the conduit through which these are funneled, hopefully will, and I think will, streamline it and make the whole process work smoother.

But again if maybe you could talk to your colleagues at the Bureau, and we would be happy to work with them as well to make that even clearer in the legislation, that we don't want to do that, and we have tried to set up a mechanism in here through the clearinghouse that will do that. But if we need to tighten it up a little bit, we certainly would be amenable to looking at it.

Thank you.

Thank you, Mr. Chairman.

Mr. DI GREGORY. Yes.

Mr. MCCOLLUM. Thank you very much.

I want to make—since there is no other Member here, I have got a couple of other questions or points to make.

Mr. BARR. Mr. Chairman, I apologize.

Mr. MCCOLLUM. Sure.

Mr. BARR. There is just one other point in shuffling papers here that I noticed.

Mr. MCCOLLUM. Go ahead.

Mr. BARR. I would like also to make clear for the record, Mr. Chairman, we do have an existing law, Public Law 92-544, that has been addressed in I know the Department's material, and I don't know that it refers to it explicitly, but it is implied in here, the reach of Public Law 92-544, which does provide authority for the FBI to deal directly with State institutions in providing these services really is fairly narrow.

It applies simply to federally chartered or insured banking institutions and, therefore, relying on that as a reason not to enact this legislation, I am not quite—I think sort of misses the point.

There is nothing wrong with the existing law. What we are saying is in light of the reality of today, where there are more and more private security officers—and again, this bill doesn't do anything at all to expand them. I know that there is at least one organization here that sort of raised a bogeyman out there that this legislation would expand the number of private security officers as opposed to police officers. It wouldn't. That is not anybody's intent.

But in light of the reality of today's world, where there are a lot of private security officers, we want to do everything we can to ensure that they are properly qualified and that there is not something that would be disqualifying—that would disqualify them. I think it is very appropriate and realistic to look at this legislation and pass it rather than rely on something that has been around for a number of years and that really is much more narrowly fo-

cused than the concern today with the number of security officers out there.

I just wanted to make that point for the record as well and appreciate, Mr. Di Gregory, your looking into that.

And I appreciate the chairman's indulgence.

Mr. MCCOLLUM. Thank you very much, Mr. Barr.

Mr. Di Gregory, with regard to the Jacob Wetteriing Act amendment that you proposed on State registration programs and the treatment as to whether they are private data or not, personally I concur with what you have to say and I thought you ought to know that. It is our recollection, my recollection, that this was some kind of a problem in the back dealings that went on to try to get compromise and all in the big omnibus crime bill. And I don't know why it was changed, to be honest. But we will certainly take it under consideration when we mark the bill up.

It would be a good place, as you suggest, a good vehicle that—this bill is before us right now, to change that particular provision if we are going to deal with Megan's law—Megans's law is certainly related.

One other area of concern right now, and it is more of an observation than a concern, you have raised a constitutional question on the Marshals Service bill with respect to the appointment of marshals by the Attorney General rather than the Director of the Marshals Service. And I read that and I heard what you said. And that may well be something that we have to change.

But am I not correct, though it may not be a constitutional problem in those cases, that the Director of the FBI and the Administrator of the DEA appoint their special agents in charge rather than having the Attorney General do that? So perhaps this is different because the FBI and DEA officers aren't officers in the sense of the Constitution as marshals are. I haven't really thought that through, but I am just inquiring if you could give us any thoughts about how you distinguish between what the FBI does, the DEA does and then what we would be doing with respect to Marshals.

Mr. DI GREGORY. I am not sure if the appointment of special agents in charge of field offices must necessarily be made with the—with the approval of the Attorney General or with the approval of the Deputy Attorney General. And I will try to get you a firm answer on that.

Mr. MCCOLLUM. That is fair enough. That is all. I just wanted to make sure that we had not overlooked something that we should be examining or exploring.

I don't want to belabor your testimony here today if there are no more questions from other members of the panel. You have been kind enough to come down and give us the Department of Justice views on this bill.

Obviously, we need some followup on a few of them, but for the most part, they are very positive. And the legislation, as we said earlier, is something that we hope we can move without controversy, but things like adding the Wetterling provision changes you have suggested, or perhaps looking at some of the technical problems we have raised today will be something we will have to consider when we move to mark up on some of the bills.

I want to ask before we adjourn the hearing today, without unanimous consent, without objection, I am going to do it, I guess, to put in the record the written testimony that has been submitted by Robert Deschamps, president of the National District Attorney's Association; Claude Shields, president of the Pennsylvania District Attorneys Association; the Honorable Jennifer Dunn, Congresswomen from Eighth District of Washington; Maureen Kanka, Megan Nicole Kanka Foundation; Ernest E. Allen, president and CEO of the National Center for Missing & Exploited Children; Victor O'Boyski, national president of the Federal Law Enforcement Officers Association; Fred Dickinson, executive director of the Department of Highway Safety and Motor Vehicles for the State of Florida on behalf of the American Association of Motor Vehicle Administrators; Judith Fitzgerald, director of government affairs to the National Insurance Crime Bureau; the American Automobile Manufacturers Association; and Regis Becker, president of the American Society for Industrial Security.

Without objection, the statements of all of the preceding witnesses will be admitted into the record. Hearing no objection, it is so done.

[See appendix.]

Mr. MCCOLLUM. If there is no other business before us today, this meeting of the Subcommittee on Crime is adjourned.

[Whereupon, at 12:20 p.m., the subcommittee adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING

PO BOX 9956, TRENTON, NJ 08650

March 7, 1996

Dear Representative,

My name is Maureen Kanka and I am writing to you on behalf of my husband and myself. Although I would have liked to have had the opportunity to address your committee today in person, I hope that you will understand and see our need for community notification across the United States.

On July 29, 1994, our seven year old daughter Megan was lured into the home of a man that lived across the street from our house. He raped, strangled, murdered then dumped her body in a nearby park as if she were a piece of trash. After her body was found, we discovered that our neighbor was a twice convicted pedophile. We had no knowledge.

As a result of this information, our family formed the Megan Nicole Kanka Foundation and spearheaded a national campaign to get what has become known as "Megan's Law" across the country. We have been instrumental in obtaining community notification laws in New York, Connecticut and Maryland since Megan's death in 1994. Pennsylvania, Arizona, Florida, Texas and a few other states took the initiative to develop community notification laws in their states. Fortunately, they see the need to notify parents if a pedophile is living on their street.

It has been very difficult dealing with the loss of our daughter Megan. Not only do we deal with our pain everyday, but we try to make a difference for other children nationally through our foundation.

How many times have I heard our leaders in Washington, DC talk about how precious our children are to us and how we have to secure their future through endeavors that you now deal with. The harsh reality now, is the fact that our future will not matter if we do not make it secure for our children today.

35-554 O - 96 - 6

Every day, children across our country are raped and murdered. I see at least two reports daily on the news of children that were sexually abused. Unfortunately when a pedophile is caught and apprehended, he will only serve a minimal sentence. In many cases, through plea bargaining, you would never know he sexually assaulted a child anyway. Only in America can you rape a child and be out in as little as five years. Unfortunately, that child will be in their own kind of prison for the rest of their life.

Thus the need for mandatory community notification across this country. If pedophiles are going to be out on the street where they can accost our children, then parents have the right to know if they live on their streets. My daughter Megan would be alive today if I had known that my neighbor was a twice convicted pedophile. I had the responsibility to protect my daughter. I have always told my children that I would never let anything happen to them. But I guess I lied. I could not protect my Megan as she was being brutally raped and murdered across the street from my home. I have to live with the fact that she screamed out my name as she was being murdered.

By letting communities know if a pedophile is living in their neighborhoods, you are only providing them with information that is public record. When they are convicted of a crime, their crime is public record. We make Megan's Law retroactive in New Jersey to cover those pedophiles that are already out there. The man that murdered my Megan was out there for six years. We just want to know if they are in our neighborhoods.

We as parents had a responsibility to Megan. You as our government have a responsibility to all the other Megan's in our country today. Please support HR #2137 introduced by Congressman Dick Zimmer. We have to start putting our children above their offenders.

Sincerely,

Maureen Kanka

Maureen Kanka
Megan Nicole Kanka Foundation
"Megan's Law"

MEGAN'S LAW

As a people, America is doing a horrible job of protecting that which is most precious to us - our children.

Every year children all over our nation are assaulted, brutalized, murdered and disappear without a trace. We put their pictures on milk cartons, we put their pictures on fliers and we hope the problem will go away. The Kanka family was at least able to bury their precious child. There are hundreds of families in our nation that will not be allowed even that small dignity because their children will never be found. This is a national tragedy that transcends all people everywhere.

There is a growing body of evidence that ***pedophilia sex offenders*** cannot be cured and their behavior cannot be controlled. Therefore it is urgent that we take lawful, constitutional steps to protect our children.

At the very least any convicted ***pedophile*** released from prison cannot be allowed to reside in neighborhoods without the knowledge of the parents and children in that neighborhood.

This simple statement is the essence of **MEGAN'S LAW.**

THE RIGHT TO KNOW

NATIONAL CENTER FOR MISSING & EXPLOITED CHILDREN

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Adam Walsh Children's Fund

TESTIMONY OF

ERNEST E. ALLEN
President/CEO
NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN

on

HR 2137

A bill requiring the states to enact
community notification laws

for the

U.S. House of Representatives
Judiciary Committee
SubCommittee on Crime

March 7, 1996

Mr. Chairman and members of this Committee, as President of the National Center for Missing and Exploited Children, I want to thank you for the opportunity to present testimony regarding HR 2137, a bill amending the Jacob Wetterling Act to require that states pass community notification laws. I also want to thank Rep. Dick Zimmer for his commitment to child protection and his visionary leadership on this vital issue.

Let me begin by first briefly describing the National Center for Missing and Exploited Children (NCMEC). Established in 1984, NCMEC is a private, nonprofit organization working with the U.S. Department of Justice to help find missing children and prevent child victimization. Serving as the national resource center on missing and exploited children required under the Missing Children's Assistance Act passed by the U.S. Congress, NCMEC provides assistance to parents, law enforcement, public and private agencies, legislators, and other professionals handling cases of missing children and child sexual exploitation.

NCMEC monitors state laws on a variety of child protection topics. In September 1994, we released our first "Report Card to the Nation," which tracked and rated all fifty states in the area of child protection legislation. The nation as a whole received a "B-" grade with regard to protecting children from sexual victimization.

The primary area in which we felt the nation needed to direct greater attention concerned tracking those who commit sex offenses against children. On April 14, 1992 the New York Times reported that one in six prisoners in state and federal prisons were sex offenders. It noted, "the number of imprisoned sex offenders is growing at a rate second only to drug crimes, in large part because of an increased willingness of victims to report the crimes." For many reasons, sex offenses evoke special concern:

(1) sex offenses are associated with the greatest risk of psychological harm;

(2) most victims of sex offenders are children;

(3) unlike other criminals, sex offenders are often perceived to suffer from psychological disorders, requiring special public policy attention;

(4) research has demonstrated that many sex offenders have a high propensity to reoffend.

There is a growing recognition that most sex offense victims are children, and that reporting of these offenses is still low. The FBI Law Enforcement Bulletin reported that "only one to ten percent of child molestation cases are ever reported to police." A National Victim Center survey estimated that 61% of rape victims are less than 18 years of age, 29% less than 11. A recent U.S. Department of Justice study of 11 jurisdictions and the District of Columbia reported that 10,000 women under the age of 18 were raped in 1992 in these jurisdictions. At least 3,800 were children under the age of 12. The Attorney General of California found that 61% of the more than 60,000 registered sex offenders in California were convicted of offenses against victims who were less than 18 years of age, and another 18% victimized children and adults.

NCMEC encourages every state to adopt a simple, common sense agenda which is tough, aggressive, balanced, sensitive to victims, practical and most importantly, effective. Community safety could only be guaranteed if all sex offenders received life sentences without parole. This is not only unrealistic, it is not good policy. Since most sex offenders will eventually return to the community, the community is interested in policies and practices which will insure the greatest level of safety. A comprehensive criminal justice response to sex offenders includes incarceration, treatment, community supervision, and community notification.

NCMEC has been a strong advocate of sex offender registration and community notification laws. Currently 47 states have enacted sex offender registration laws, beginning with California in 1947 and most recently Pennsylvania during the 1995 session. Thirty states also have community notification laws. In 1993, Congress passed the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act which mandates passage of sex offender registration by next autumn and strongly encourages the passage of community notification.

When employed in conjunction with each other, registration and notification laws offer the greatest level of assistance to law enforcement and safety to neighborhoods possible within the bounds of our Constitution. The sex offender registry assists law enforcement in investigating cases involving sexual offenses against children by providing immediate access to computerized information on convicted felony sex offenders living in the community. In light of the fact that these cases are extremely difficult for law enforcement to investigate and victims of sexual offenses frequently suffer long-term effects as a result of the crime, a sex offender registry can provide law enforcement with a valuable investigative tool. A responsible community notification program permits law enforcement to release relevant and necessary information to the public as needed for public protection. Notification guidelines to be developed by the appropriate agency should provide instruction for law enforcement regarding the appropriate dissemination of the information and a means of educating the community concerning responsible ways to use and react to the information.

The registration of convicted sex offenders reentering the community is a control that helps protect children from victimization. Since sexual attraction of these offenders to children may not be curable, and there is abundant evidence of the high propensity of such offenders to reoffend, states have good reason to monitor the whereabouts of convicted sex offenders. Protecting the public, especially children, from sex offenders is a primary governmental interest. The privacy interests of persons convicted of sex offenses do not supersede the government's legitimate interest in public safety. Furthermore, the fact that one enjoys illegal sexual exploitation is not protected information. The courts have consistently upheld the constitutionality of sex offender registration and community notification laws, most recently in New Jersey. I have prepared for your review a legal memoranda of the relevant case law that is attached herein.

Research from the Washington State Institute for Public Policy indicates that community notification has worked well in that state. A study conducted after the first three years of that state's community notification program found only 14 acts of harassment or aggression directed at registered offenders. This is particularly noteworthy

given that the Washington statute was enacted in response to two horrific incidents of sexual brutality.

Sex offender registration and community notification procedures are just one part of an overall strategy of dealing with sex offenders. The community should not get a false sense of security because these programs are available. Vigorous prosecution, strong sentencing, comprehensive treatment, and rigorous follow-up should also be part of the strategy. A sex offender registry and notification program is not a panacea, but it is a simple, common sense approach to this problem.

Contrary to media portrayals, this is not a zero-sum situation: increased public safety and vigilance does not have to come at the expense of individual rights and liberties. Society must work together to achieve the societal integration of ex-convicts desiring a law-abiding lifestyle, while thwarting the recidivist attempts of those not so principled. The National Center maintains that community notification can further these aims and be a valuable tool in the fight to protect our children when coupled with calm rationality and deliberated decisions. Consistently, citizens nationwide insist they would want to know if a convicted sex offender lived next door; it is our responsibility as policymakers to respond to their concerns.

Representative Zimmer's own state is an example of community notification at work. Following the terrible abduction and murder of Megan Kanka, the New Jersey legislature responded with a community notification law -- "Megan's Law." Under the New Jersey law, identified sex offenders are evaluated by specialists and categorized by risk of reoffense, and notification by law enforcement is made as broadly or narrowly as that risk assessment dictates. The law provides for judicial review of this risk assessment if legally challenged. It also provides the offender with extensive constitutional protections to insure the validity and constitutionality of the system as implemented. Megan's Law was initially modeled after its Washington state counterpart, which has consistently withstood judicial scrutiny, and like its predecessor, Megan's Law has withstood legal challenge. Indeed, on July 25, 1995, the New Jersey Supreme Court pronounced New Jersey's community notification law constitutional, despite problems it cited in the then-current implementation guidelines. In spirit, the court said, community notification as established in New Jersey is constitutional. It is our hope that Rep. Zimmer's bill will initiate the passage of effective, constitutional Megan's Laws nationwide.

I believe HR 2137 is legally valid, and fairly and reasonably balances the rights of the released offender with the compelling public interest of protecting America's communities against high risk sex offenders. Most importantly, I am confident that such a system will make the citizens of the United States, particularly the children, safer than ever before.

I strongly urge this Committee's support of the passage of HR 2137.

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

Representing Members Of

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COMMERCE
- Export Enforcement, OIG
- & National Marine Fisheries

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FEDERAL DEPOSIT INSURANCE CORPORATION - OIG
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STATEMENT OF

VICTOR G. OBOYSKI

NATIONAL PRESIDENT

OF THE

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

ON

H.R. 2641

"THE UNITED STATES MARSHALS SERVICE IMPROVEMENT ACT"

FOR THE

HOUSE JUDICIARY SUBCOMMITTEE ON CRIME

ON

MARCH 7, 1996

The U.S. Marshals Service 1789-1996

The United States Marshals Service (USMS) was created in 1789. The U.S. Marshals of the states and territories were appointed by the President and confirmed by the Senate. The Marshals operated independently from Washington and served as policy makers in the districts until an executive office was created to provide oversight and coordination between the Marshals and the Attorney General.

In 1969, the headquarters for the U.S. Marshals Service was created. This office began central budgeting and provided control over the selection of deputies in the district offices. Gradually the individual policy making of the district Marshals eroded and was replaced with more uniform policies and procedures generated by headquarters.

Between 1969 and 1986, as increasing responsibilities were given to the Marshals Service, headquarters developed national programs in judicial security, witness protection, prisoner housing and transportation, asset seizure and forfeiture, fugitive investigations, and internal audits and inspections. Headquarters set policies, controlled resource allocation and coordinated multi-district operations, but had little input into the selection of the appointed U.S. Marshals, many of whom were not law enforcement professionals.

The politically appointed U.S. Marshals controlled the day to day assignments, while headquarters controlled the career deputies long-term career advances and duty stations. The traditional independence of the Marshals clashed with the growing central control exercised by headquarters. Headquarters began

bypassing and taking control away from the Marshals by establishing national programs in the area of witness security, fugitive investigations, asset forfeiture programs and high level judicial protection activities. The success of many of these programs can be attributed to the fact that responsibility for these activities were taken away from the politically appointed U.S. Marshals.

Today, the U.S. Marshals Service is a professional law enforcement agency with 4,000 employees assigned throughout the United States and its territories. The responsibilities of the Marshals Service have grown tremendously since the day President George Washington appointed the first thirteen U.S. Marshals. What has remained the same is the way in which U.S. Marshals are selected.

Politically Appointed U.S. Marshals

The selection of the U.S. Marshal is as varied as the Senators that nominate them. Currently there is no criteria for the selection of a U.S. Marshal. There is no age, physical fitness, educational, managerial, budgetary or law enforcement requirement or experience needed to become a U.S. Marshal. In the past Marshals have been a phone company foreman, a coroner, a pig farmer and a host of a childrens' daytime TV program; just to name a few. The continued lack of professional standards for the position of U.S. Marshal allows individuals, with occupational backgrounds similar to those mentioned above, the ability to still be appointed U.S. Marshal.

Today, while there are still some Marshals with no law enforcement or managerial experience, many Marshals are retired

law enforcement officers from state and local agencies, finishing out a long career in law enforcement at the federal level. While they come to the Marshals with experience from their former departments, much of it has little relevance in the day to day operations of the Marshals Service. A new Marshal must first learn federal law and procedures, court rules and procedures, department and agency regulations and policies, Civil Service Commission regulations, budget formulation and execution requirements, procurement law and procedures, and a host of other federal government requirements in order to make competent decisions in the daily operations of the office. The only training a newly appointed Marshal receives from the Marshals Service is a forty hour ordination session.

Because the presidentially appointed U.S. Marshal frequently does not have the composite experience and the requisite knowledge, the task falls to the Chief Deputy U.S. Marshals (CDUSM) to provide the leadership and management expertise to carry out the USMS mission in the district office. CDUSM are senior career federal law enforcement employees who have spent many years in the USMS developing their skills. They undergo a comprehensive and highly competitive assessment process, in service training, and are responsible for the operation and administration of their districts. These CDUSMs provide the management continuity of the USMS field operations.

The lack of expertise and experience of the appointed U.S. Marshals necessitates the role of the CDUSM. This requires that a CDUSM must be assigned in every district office. While the CDUSM is responsible for the overall fiscal operation and administration of the office, Supervisory Deputy U.S. Marshals

(SDUSM) are needed for the day to day assignments and supervision of the personnel. The system of CDUSMs and SDUSMs to support the appointed U.S. Marshals has caused the USMS to have a bloated middle management. The ratio between employee to manager in the U.S. Marshals Service nationwide is four (4) to one (1); the highest ratio of managers in federal law enforcement.

In addition, the presidentially appointed U.S. Marshal is not subject to disciplinary actions and may only be removed by the President or upon the appointment of a successor. The Director of the USMS has little authority to deal with a U.S. Marshal's incompetence or misconduct. A letter of censure from the Director is the most severe disciplinary action that can be taken against a U. S. Marshal. By contrast, all other Marshal Service employees can be transferred, demoted, suspended or even removed for similar infractions.

Short of illegal or gross misconduct, U.S. Marshals cannot be held accountable for their actions. The disparity in discipline between political U.S. Marshals and career employees has a devastating impact on morale. The double standard breeds strong resentment among the career Deputy Marshals. When there is a disagreement between the appointed U.S. Marshal and the career CDUSM (who actually runs the office) the CDUSM is frequently reassigned. U.S. Marshals cannot be.

Flagrant disregard for fiscal discipline is a serious problem within the field offices. The Government Accounting Office (GAO) has sited the USMS numerous times for poor fiscal management and budgetary responsibly. Because there is little control or accountability over the political appointed Marshals, a Marshal that routinely exceeds his budget by thousands of dollars is

allowed to remain in office.

The U.S. Marshals Improvement Act

Vice-President Al Gore's National Performance Review (NPR) recognized the problems the USMS faces with the current system and recommended that the position of U.S. Marshal be a career position from within the Marshals Service. The passage of the "U.S. Marshals Improvement Act" will professionalize the office of the United States Marshal and will help accomplish a number of goals that have been set forth by NPR. The following are some of those goals:

- Only experienced career managers from within the USMS will become U.S. Marshals. It will ensure that individuals being considered for the position of U.S. Marshal will be selected on the basis of what they know, not who they know.

- Career Marshals will be subjected to the same disciplinary actions as the employees that they supervise. U.S. Marshals performing at an unexceptable level could be transferred, or demoted if necessary. Marshals performing at an exceptionable level can be utilized by headquarters in offices where they can do the most good. The Director will have, for the first time, control over the operations of the entire USMS. This will ensure that the field offices are more responsive to headquarters when required.

- The USMS will be able to create a career ladder for those employees that want to become top managers, similar to those already utilized by DEA and the FBI. This will ensure that only the best managers within the USMS will be promoted and

assigned to the larger and more demanding field offices.

- Middle management positions can be downsized. There will be no need for the extra positions currently used to support the political Marshals. Experienced career Marshals will have the knowledge needed to run a small or medium size field office without the extra layers of management to support them.

- In critical incidents, such as a shooting, a career U.S. Marshal who has a federal law enforcement background, a working knowledge of federal law and procedure, and USMS policies that are to be followed, would be able to respond and assist the USMS personnel involved.

- Career Marshals will ensure that the USMS operates as a national organization, not ninety-four separate ones. This will increase the overall efficiency of the USMS nation wide. Cooperation between district field offices and headquarters will improve, as will the cooperation between the field offices themselves.

- A number of the USMS national programs can be delegated to the field offices where an experienced career Marshal can oversee its operation. This will allow for the downsizing of USMS headquarters staff to the field where they are needed most. It will also cut red tape and layers of bureaucracy that currently exist.

The USMS reorganization plan calls for many of the same goals as stated above. The reorganizing calls for the decentralizing and downsizing of USMS headquarters. Also, the cutting red of tape and bureaucracy. This is to be accomplished

in part by giving the U.S. Marshal in the filed district office more decision making authority and responsibly. Headquarters will then assume more of a support role. Most of the goals in the reorganization plan are good ones and are in line with the recommendations of NPR.

The success or failure of the reorganization plan will depend upon another important NPR recommendation, career U.S. Marshals. If implemented, the responsibility for the success of the reorganization plan will fall squarely on the ninety-four U.S. Marshals. The reorganization plan calls for the U.S. Marshal to be the central focal point, or hub, in future USMS operations. Having political appointees, who change every four to eight years, with such an important role in USMS operations, the reorganization plan will take the Marshals Service backwards, not forwards. Only career U.S. Marshals, selected from within the Service, will ensure that the USMS reorganization plan will succeed.

The "U.S. Marshals Improvement Act" is a common sense approach to professionalizing the U.S. Marshals Service. This proposal has been supported by former Attorney General William Barr and former USMS Director's Henry Hudson and Stanley Morris. Attorney General Janet Reno and current USMS Director Eduardo Gonzalez both support having career U.S. Marshals from within the USMS. It is also supported by the Fraternal Order of Police and the over 11,000 men and woman of FLEOA. We now need the support of Congress to help lead the United States Marshals Service into the twenty-first century with career U.S. Marshals at its' helm.

STATEMENT BY
FRED O. DICKINSON, III, EXECUTIVE DIRECTOR
DEPARTMENT OF
HIGHWAY SAFETY & MOTOR VEHICLES,
STATE OF FLORIDA

on behalf of

THE AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS ("AAMVA")

Regarding H.R. 2803,
The Anti-Car Theft Improvements Act

BEFORE THE

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME
UNITED STATES HOUSE OF REPRESENTATIVES

Washington, DC
7 March 1996

Mr. Chairman, the Florida Department of Highway Safety and Motor Vehicles and the American Association of Motor Vehicle Administrators appreciate this opportunity to testify in support of H.R. 2803, legislation that would do more to help fight auto theft than anything else Congress could do this year.

Our State of Florida issues more than 4.4 million vehicle titles each year. The Title Information System is a major item in Florida's strategic plan, so we Floridians are especially proud of the leadership you have shown in introducing this bill. I am sure you will have the continuing support of state titling and law enforcement officials all over

Statement by Mr. Fred O. Dickinson, III
American Association of Motor Vehicle Administrators
March 7, 1996

America as you move H.R. 2803 toward enactment and the National Motor Vehicle Title Information System toward reality.

Our Association, AAMVA, represents the state and provincial officials in the United States and Canada who are responsible for the administration and enforcement of all laws pertaining to motor vehicles and their use. AAMVA, and its subsidiary, AAMVAnet, are not-for-profit corporations which operate in active partnership with agencies of the federal government to promote more effective law enforcement, safety and technology to improve services to our customers and citizens.

In 1992, at AAMVA's urgent request, Congress wrote into the Anti-Car Theft Act provisions to establish a National Motor Vehicle Title Information System ("NMVTIS") no later than January, 1996. Unfortunately, this deadline came and went. With swift congressional action, however, it is possible to implement the system by the start of Fiscal 1998. Thanks primarily to the leadership of Chairman Frank Wolf (R-VA) of the House Transportation Appropriations Subcommittee, Congress took one positive step by appropriating approximately $1 million in the current fiscal year for "seed money" grants to states implementing the system on a pilot basis.

I am pleased to report that Florida is one of the states leading the way on the pilot project. Florida and five other states - Virginia, Michigan, Indiana, Massachusetts and New York - are working diligently with AAMVA to define the technical requirements of the system. We expect to be able to begin exchanging title data on a "live-time" basis soon.

Our ultimate success depends on the willingness of Congress to fill critical gaps in the existing law. H.R. 2803 would improve the Anti-Car Theft Act in three important ways. First, it would transfer responsibility for the system to the Justice Department and establish a realistic system implementation date. Second, it would authorize appropriations for the previously-established grant program to enable states to make necessary software changes. Finally, it would encourage private sector participation in establishing and operating the system and also the National Stolen Auto Parts Information System, which was also established by the 1992 Act.

The states want the Title Information System. Law enforcement needs it desperately. The Justice Department has all the necessary incentive, experience and know-how to get the Title Information System operational and to make it financially self-sufficient. But we cannot make the NMVTIS a reality without a modest amount of additional financial support and other assistance from the federal government. For Florida and the other pilot states, timely enactment of H.R. 2803 is especially critical. By participating in the pilot project, we are all

committing substantial time and resources to a system that cannot reach maximum effectiveness unless the remaining states are also able to participate.

The NMVTIS is needed because there currently is no automated way for motor vehicle departments to verify the validity of vehicle titles issued by other states. NMVTIS fixes this problem by establishing a national system whereby states will be able to verify, within seconds, the validity of titles and other documents from other states prior to issuing new titles. This will prevent thieves from obtaining legitimate vehicle ownership documentation and would be a powerful investigative tool for law enforcement.

Last year, over 1.5 million vehicles were reported stolen in the United States. A recent analysis of actual interstate title transfers showed that states issue new titles for vehicles that had already been reported stolen on a staggering number of occasions - 140,000 times each year. It is ridiculous to expect car theft investigators to do an effective job when "good paper" is so readily available. It is also important to remember that these cars represent only a fraction of the additional cases in which car thieves registered stolen vehicles using identification numbers that have been lifted from junked vehicles - another fact that would be detected instantly by using the NMVTIS.

Let me stress, Mr. Chairman, that the NMVTIS does not create any new databases. All the information we need exists already in state records and in commercially-compiled databases. What we lack is the ability to communicate among databases. AAMVAnet was created expressly for the purpose of providing the interstate communication links needed to connect driver license databases. NMVTIS is in many ways modelled after the Commercial Driver License Information System ("CDLIS") and the National Driver Register ("NDR"), both of which have helped the states to keep dangerous drivers - especially problem truck drivers - off the highways.

Mr. Chairman, various excuses have been offered as to why the Congressionally-mandated 1996 deadline was not met. Some say the system cannot work without complete uniformity of title definitions and procedures from state to state. While greater uniformity, especially in the definitions of "junk" and "salvage" is a high priority for AAMVA, it is unrealistic to expect complete uniformity before the turn of the century. More importantly, it is patently untrue that the lack of uniformity will keep the NMVTIS from being effective. For example, states have various terminology and definitions for "drunk driving," "DWI," "DUI" and a wide range of zero-tolerance laws for teenage drivers, but CDLIS works. We have no doubt whatsoever that the NMVTIS would be an extremely effective tool with regard to stolen cars (where lack of uniformity in definitions is never an issue) and also with respect to rebuilt wrecks, odometer rollbacks and various other consumer frauds involving the "laundering" of

motor vehicle titles (where greater uniformity is helpful but not necessary). Other side benefits include strengthened control over the export of stolen cars and stronger motor carrier safety enforcement.

We appreciate the funds the pilot implementation project received in the current fiscal year. But additional funding in Fiscal 1997 will also be crucial to implementation of the full NMVTIS. As this Subcommittee is well aware, Congressional consideration of Fiscal 1997 appropriations is already well underway. The NMVTIS needs a sponsor in the Executive Branch of the federal government, and the Justice Department fits the bill for this important anti-crime program perfectly. H.R. 2803 would make it possible to secure the necessary funding at the most appropriate agency.

We urge enactment of this bill as quickly as possible so the necessary funds can be appropriated in time to get the system operational by the beginning of Fiscal 1998. This ambitious but achievable new implementation date would be a year and a half later than Congress originally required. We are ready to make up for lost time, but we need your help.

Once again, thank you for your leadership on this legislation, Mr. Chairman.

NICB NATIONAL INSURANCE CRIME BUREAU
10330 S. ROBERTS ROAD, PALOS HILLS, ILLINOIS 60465

VIA UPS
NEXT DAY AIR

March 4, 1996

The Honorable Bill McCollum
Chair, Committee on Judiciary
Subcommittee on Crime
U. S. House of Representatives
2266 Rayburn House Office Building
Washington, D.C. 20515-0908

RE: HR 2803 - The Anti-Car Theft Improvements Act

Dear Chairman McCollum:

The National Insurance Crime Bureau (NICB) is a national, not-for-profit organization supported by approximately 1,000 property/casualty insurance companies. Working with our members and law enforcement, we investigate cases of vehicle theft and insurance fraud.

HR 2803 will have a major impact on vehicle theft, insurance and consumer fraud and we fully support its passage. The bill makes a number of technical and non-controversial changes to the 1992 Anti-Car Theft Act. The 1992 law established a central motor vehicle registration system to help state law enforcement agencies control auto theft.

HR 2803 transfers the program from the Transportation Department to the Justice Department, grants immunity for persons performing activities in connection with the mandated databases and authorizes funding for a state grant program.

Passage of this legislation is critical in order to reduce and control the problems associated with auto title fraud, illicit trafficking in stolen auto parts and the export of stolen cars. The 1992 act was a well-balanced approach attacking various dimensions of the auto theft/fraud problem in a systematic way. HR 2803 will greatly enhance the effectiveness of the original law.

NICB is a recognized leader in auto theft/fraud prevention and detection. We ask for your help in passing a crucial piece of legislation which will be instrumental in the battle against vehicle theft and fraud.

Sincerely,

Judith M. Fitzgerald

Judith M. Fitzgerald
Director of Government Affairs

JMF:dc

TESTIMONY REGARDING H.R. 2996
submitted by
THE AMERICAN SOCIETY FOR INDUSTRIAL SECURITY
before the
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES

March 7, 1996

Mr. Chairman, my name is Regis Becker and I am president of the American Society for Industrial Security (ASIS). On behalf of the more than 25,000 security professionals who belong to ASIS, I want to thank you and the members of your Committee for holding these hearings and inviting us to testify in support of H.R. 2996, the "Law Enforcement and Industrial Security Cooperation Act of 1996." We particularly want to thank Congressman McCollum, Chairman of your Subcommittee on Crime, for his far-sighted leadership in formulating and introducing this important legislation.

Though recent trends have been encouraging in a few respects, crime is a major problem in our society and remains atop the public's list of concerns. Perhaps just as harmful to our society as the rate of crime is a crippling fear of crime that is partially born of the perception that those of us -- in both the public and private sectors -- who are responsible for preventing crime are not doing enough. This fear undermines the very notion of what it means to live in a free society. I am certain that you and all your distinguished colleagues in The Congress hear more about crime than you would like -- from your constituents who have been victims or are the families and friends of victims, and from those who fear someday becoming victims.

Americans want to be safe on their streets, in their homes, and at their places of work. But a combination of mounting societal needs and declining public budgets have impaired the ability of government at all levels -- federal, state, county and local -- to provide sufficient protection. By sufficient protection, I mean protection that is to the breadth, and in the depth, required to alleviate the problem dramatically and restore public confidence. Clearly, more must be done to control crime. This does not necessarily mean spending more tax dollars. ASIS believes that considerable progress can be made in the war against crime if we in public law enforcement and private security work more closely <u>together</u>, rather than separately; if we work more <u>intelligently</u>, rather than more expensively. This, it seems to me, is what H.R. 2996 will foster.

As the text of the bill recognizes, the private security industry is nearly three times the size of public sector law enforcement in personnel, and more than three times its size in budget. There are good reasons for this. An authoritative 1990 report entitled "Private Security Trends, 1970-2000" resulted from studies conducted by Hallcrest Systems of McLean, Virginia, under a grant from the National Institute of Justice, U.S. Department of Justice. The <u>Hallcrest Study</u> cited four reasons for the growth of private security:

By 1986, a Joint Council of Law Enforcement and Private Security Associations was established, with representatives of the International Chiefs of Police (IACP), the National Sheriffs' Association (NSA), and ASIS. The Department of Justice also was actively involved, provided funding through its National Institute of Justice. The Joint Council identified 15 areas for cooperative programs and began a dialogue on how these programs should be developed. This particular program soon withered for lack of continued funding and staff support, but that does not mean the effort has died.

Cooperative work has continued through the Private Sector Liaison Committee of the IACP; the Private Security Industry Committee of the NSA; the Law Enforcement Liaison Council of ASIS; the National Crime Prevention Council, also a supporter of H.R. 2996, and its well known corporate partnerships and public education programs; and the Overseas Security Advisory Council (OSAC) to facilitate information exchange between the public and private sectors on matters involving overseas security threats. The Crime Prevention Coalition, a loose confederation of more than 120 state and national organizations, also facilitates information exchange and cooperative activities in the crime control community.

Nor has this activity been limited to national organizations. We are pleased to note that a number of cities and corporations also have recognized and acted upon the need for increased public-private cooperation in crime control. Last September, ASIS' flagship publication for our industry, Security Management, cited Philadelphia and St. Louis as among those cities where innovative and effective programs have been conducted. Baltimore, Dallas, Detroit and New York also have been recognized as cities where significant progress has been made. A number of corporations, including Mobil, IBM and Hoffman-La Roche have been singled out for their efforts at improving public-private cooperation in crime control.

All this is encouraging. But the fact is that progress has been sporadic and relationships are, even now, characterized as "fair to good, at best." There is no cohesive, national strategy to encourage cooperation by recommending model procedures and removing laws and regulations which inhibit cooperation. Pockets of cooperation exist around the country, but they are the exception rather than the rule. The relationship between police agencies and their corporate counterparts tend more to reflect the personal relationships between the leaders of those groups than a rational consideration of real criminal threats and coordinated approaches to meet them. Thus, they vary from excellent to poor. Where they are excellent, the public benefits. Where they are poor, the public suffers.

In its "Findings and Recommendations," the Hallcrest Study identified several measures which would improve public-private cooperation.

- One was to upgrade the selection processes and training of private security personnel. We in ASIS are keenly aware of the importance of this issue. Those of us who have made our lives in law enforcement and corporate security cannot have the perception of our profession undermined by employees at lower levels in some organizations who are ill-selected and poorly trained.

ASIS has the best certification program for security professionals in the world, and we are determined that this level of attention to selection and training be pushed down through the ranks of the private security field. Improved selection and training also will effectively provide a means of self-licensing and self-regulation in which the police and public can have confidence, as well as reduce the high rate of turnover which has been characteristic of the industry at its lower levels.

- Just as private security must make every effort to build police and community confidence by continuing to improve the selection and training of its personnel, another recommendation was that police agencies increase their knowledge of private security. Seminars, training materials, inventories of security firms, and other mechanisms are recommended to develop a greater awareness by the police of the role and resources of private security in their communities.

- Yet another recommendation was the establishment of management and supervisory meetings and private security liaison officer positions in law enforcement agencies to increase dialogue, resolve problems and exchange information. In fact, information exchange and improved communications were the primary recommendations for more effective use of combined resources.

More cooperative programs are needed. The exemplary programs named earlier should be studied for their relevance and value to communities across the land. New, effective, cooperative programs should be developed. Statutory and procedural impediments to public-private cooperation should be identified and removed, and enhancements to cooperation encouraged. As the Hallcrest Study states, "...the forging of cooperative crime and fear reduction ventures between the public and private sectors has begun -- albeit slowly. The number of partnerships and the diversity of programs undertaken is evidence of the desire and need for enhanced communication and cooperation between the law enforcement, private security and business communities."

The desire and need are clearly established. What must be developed now is a mechanism for bringing these parties together to take a comprehensive, national approach to crime control--not in "fits and starts," but in a way that truly addresses the scope and seriousness of the problem. We in ASIS support H.R. 2996 because it not only would bring together law enforcement and private security, but also the nation's elected representatives. Findings and recommendations of the Law Enforcement and Industrial Security Cooperation Commission would be formulated and considered at the highest levels of public and business policy, with The Congress an active participant.

Mr. Chairman, we urge you and your colleagues to support this legislation. The members of ASIS look forward to working with you, and our brothers and sisters in the public law enforcement field, in bringing to bear all we have to offer in the fight against crime. Thank you.

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STATEMENT

of the

NATIONAL ASSOCIATION OF SECURITY COMPANIES

Before the

US HOUSE OF REPRESENTATIVES

Committee on the Judiciary

Subcommittee on Crime

Regarding HR 2092

"The Private Security Officer Quality Assurance Act"

March 7, 1996

The National Association of Security Companies (NASCO) strongly supports HR 2092, the "Private Security Officer Quality Assurance Act of 1996". We commend the Subcommittee for holding this hearing today to explore the need to provide expeditious criminal background checks for security personnel.

Our association is comprised of the nation's leading contract security officer companies, providing employment to more than a quarter of a million employees. Our member companies are committed to enhancing the professionalism of the private security industry. Historically, we have sought to accomplish that objective by working with state legislatures and state regulatory authorities to promote the adoption of laws and administrative rules and procedures that would better enable us to serve the needs of our employees, clients, and the general public.

Outside the legislative arena, we have adopted a suggested code of ethics for private security officers and a suggested code of standards for private security companies.

Our original focus on state legislation affecting our industry has been expanded over the years to include federal legislation in those specific instances in which federal statutory changes are the

only practical remedy for problems facing the industry. HR 2092 provides such a remedy for a serious issue confronting private security companies.

Industry Background

Today there are more than 12,000 companies providing private security in the United States, employing an estimated 1.5 million persons. One of the paradoxes of this industry is that except in extraordinary instances or emergencies, a private security officer's performance is often unnoticed when the officer's duties are being fulfilled most effectively. Because we so frequently fade into the background, many people are unfamiliar, or even unaware, of some of the basic facts about our industry.

The private security industry is one of our nation's oldest service industries, dating from the 1850's. Over the past 140 years, the role of private security officers has evolved to include an enormous range of functions, and the sophistication and specialization of private security officers has grown commensurately with the expanding spectrum of clients we serve. Our personnel are as diverse as the American populace, presenting a microcosm of the American melting pot.

Public Deserves Assurance of Basic Standards

As noted earlier, private security is a low-profile service. When the job is done well, the public tends not to pay attention to our employees. When a security officer is needed, however, the public should be able to rely on the expectation that a person wearing a security officer's uniform has been thoroughly screened, and trained.

Background Checks

NASCO members make every effort to do a thorough background check before hiring security personnel. We use all available means to determine if the applicant has a disqualifying criminal history. But current law makes this determination extremely difficult. Our attempts, or those of state regulators, to obtain data from the FBI's criminal history records are subject to incredible delays. This is due primarily to the number of hands through which the applicants' forms must pass, from state regulators to the state criminal records agency and then to the FBI. Requests for such information are often given low priority status.

The nature of private security work, where our employees are entrusted with responsibility for the security of people and property on our clients' premises, demands a more timely means to

check for any criminal history our job applicants may conceal from us and the regulators.

Expedited Procedures

HR 2092 provides an expedited procedure for to permit regulators to obtain timely criminal history information from the FBI. It is not precedent-setting. Based on the systems now being used by banks, brokers, and the parimutuel industry, it would allow a clearinghouse to obtain fingerprint cards from security companies, check them for clarity, and forward them to the FBI. At that point the Bureau would match the prints against their records and send the results back to the state regulators. Based on the experience of the industries now using the system, we expect response times of about three weeks compared to current delays of up to 18 months. Under this system the regulators would determine the fitness of applicants and notify the security firm where the applicant has applied for a position.

Sense of the Congress

NASCO believes that all states should require such background checks as well as adequate training of security personnel. We commend Congressmen Barr and Martinez for including a "Sense of the Congress" provision urging enactment of such standards by those

states which don't have such requirements today. We have been working with the states to enact such provisions, and encouragement from the Congress will be helpful to those efforts.

We urge adoption of this critical legislation. The private security industry asks for no more than has already been provided other industries which require employees of high integrity. Thank you for your consideration.

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Statement by Representative Jennifer Dunn on H.R. 2137

Mr. Chairman, thank you for holding this important hearing on minor and miscellaneous bills. This is important because every time we hear of a crime committed by a sexual predator we feel fear and terror in the possibility that our personal safety -- or that of a loved one -- is at risk. Tension and anxiety become routine parts of our day - walking to our cars, sending our children off to school or locking up the house at night. And, of course, women feel the brunt of this anxiety because women are the targets of most sexual predators. Nobody should have to live in fear. Congress can and must help target the crimes that cause us the worst fear. We can pass a law that will **require** notifying a community when a sexually violent predator has moved into the neighborhood.

Action on sexual predators was prompted years ago in Washington state by the grisly crimes of repeat sexual offender Earl Shriner. Shriner had a 24-year history of violent sexual assaults on young people. Confirming all the studies of high rates of recidivism. He was repeatedly jailed and released - committing the same crimes for which he was first incarcerated over and over again.

After a series of other crimes committed by repeat sexual offenders like Earl Shriner, the Washington state legislature met in a 1990 special session and passed the Sexually Violent Predators Act.

U.S. Senator Slade Gorton then brought the Washington state model back to D.C. to implement on the federal level. I began work on the House side to include the model in the 1994 House Crime bill. The sad incident in New Jersey with Megan Kanka was unfortunately an additional factor, the impetus for including sexually violent predator language in the 1994 Crime bill. With Senator Gorton's help, Mr. Zimmer, Mr. Moorhead, Mr. Deal and I were able to convince conferees on the 1994 Crime bill to include community notification and registration and tracking of sexually violent predators.

Since the 1994 Crime Law enactment, many states have developed tracking programs that require convicted sexual predators to register with local law enforcement agencies upon release and allow officials to notify local communities of their presence. Now, Mr Chairman it is time that we take this good law one step farther before we are shocked once again to hear of a needless death or crime committed by a violent sexual offender. Currently, communities may *or may not* be aware of a predator in their midst. We **must** alert the communities when sexually violent predators are in the area. H.R. 2137 will accomplish that by changing community notification from an option to a requirement.

Empowering families, women and children with the knowledge that a potential threat is looming in their community enables them to take the necessary precautions to ensure that there are not a second, third or fourth victims. Communities **MUST** know when a sexual predator has moved in next door. That is why I am an original cosponsor and support swift passage of H.R. 2137, a bill that will require law enforcement to notify communities of a sexual predator.

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Statement of the Honorable Nathan Deal
on
H.R. 2137 to amend the Violent Crime Control
and Law Enforcement Act of 1994
March 6, 1996

Within the context of the 1994 crime bill, we were successful in passing Megan's Law. This vital legislation is named after seven-year-old Megan Kanka, who was abused and killed by a convicted sexual offender. Megan's Law provides a state tracking and registration program for sexual predators, recommends community notification when a sexually violent predator is released from prison and grants immunity to law enforcement agencies that act in good faith.

While some states have enacted community notification, most have not. Because there is no uniform standard, it is alleged that sexual offenders are flocking to the states that have opted not to release this vital information. H.R. 2137 has been introduced to strengthen the federal law dealing with community notification. I am a cosponsor of this measure to require communities to protect the public when dangerous sexual offenders are in their midst.

As an attorney and former judge, I have seen first-hand the anguish endured by victims of violent sexual predators. I have also witnessed the frustration of law enforcement officials who tell me that had this type of language been enacted previously, the number of women and children victimized would be far lower. Just recently in Georgia, a repeat sexual offender was arrested and found with five children in his van. This is not a problem affecting only the ninth district of Georgia. This man had also been charged with sexual assault allegations in Alabama and California. Due to the transient nature of sexual offenders, we must do more at the federal level to protect children from such tragedies.

Furthermore, a shocking U.S. Justice Department report has indicated that two-thirds of all state prisoners convicted of rape or sexual assault committed their offense against a child. The report on child victimization was compiled from interviews with inmates in 277 prisons in 45 states. This is simply unacceptable, and it is time to take action to stop this injustice. We must open the books on these crimes once and for all. If knowledge is power, providing citizens with notification of sexual offenders will allow communities to fight back against these criminals - and hopefully win. I fully support the passage of H.R. 2137 and urge my colleagues to join in this effort.

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